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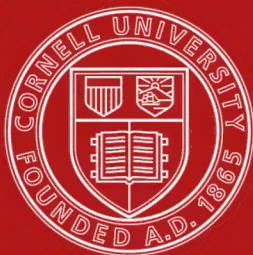
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PUBLIC PAPERS
OF
ALONZO B. CORNELL,
GOVERNOR
OF THE
STATE OF NEW YORK.
1880.

ALBANY:
E. H. BENDER'S SON, PRINTER.
1880.

57



PUBLIC PAPERS
OF
GOVERNOR CORNELL.

MESSAGE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *January 6, 1880.* }

To the Legislature :

In obedience to the Constitution, information relative to the condition of the State is herewith communicated, with such suggestions and recommendations as are deemed expedient.

The year just closed has been one of increasing prosperity and encouragement. With the resumption of specie payments by the National Government, and the restoration of a sound financial basis, there has been marked improvement in all business affairs. Renewed confidence has set in motion the current of industrial activity, and willing hands have had ready employment. Ample crops have found eager markets, and agricultural interests have abundantly prospered. There has been unusual exemption from disease, while peace and good order have prevailed within our borders. Seldom, indeed, has there been such cause for thankfulness. May we, as a people, have a realizing sense of gratitude for the Divine favor so generously bestowed upon us.

FINANCES.

The finances of the State are reported to be in a satisfactory condition. The operations of the last fiscal year and the general condition of the State treasury, on the 30th of

September, 1879, are shown by the following statement :

Aggregate balances in the Treasury of all the

funds October 1, 1878..... \$4,293,883 54

Aggregate receipts during the fiscal year end-

ing September 30, 1879 12,852,944 88

\$17,146,828 42

Deduct payments during the year..... 12,628,472 01

Balance in the Treasury, Sept. 30, 1879. . \$4,518,356 41

The amount of receipts into the Treasury on

account of the General Fund revenue, during

the year ending September 30, 1879. \$7,101,964 40

The payments..... 7,191,533 60

Apparent deficiency, September 30, 1879.. \$89,569 20

SUPPLEMENTARY STATEMENT.

Balance due from County Treasurers, Sept-

ember 30, 1879, on State tax of 1878 \$147,984 66

Add amount paid on account of 1879, appro-

priations included in tax levy of last year,

payable in State Treasury in April and May,

1880..... 835,352 18

\$983,336 84

Deduct apparent deficiency of the

revenue, September 30, 1879, as

shown in preceding statement.. \$89,569 20

Also balances of 1878, appropria-

tions unpaid and in force Sept-

ember 30, 1879 274,725 59

Also balance of 1879, appropria-

tion for New Capitol, not in-

cluded in tax levy..... 217,763 56

582,058 35

Actual surplus September 30, 1879..... \$401,278 49

DEBT.

On the 30th September, 1878, the total funded debt was \$9,154,054.87, classified as follows :

General Fund.....	\$122,694 87
Canal	9,020,360 00
Bounty.....	11,000 00
	\$9,154,054 87

On the 30th September, 1879, the total funded debt was \$9,122,054.87, classified as follows :

General Fund.....	\$122,694 87
Canal	8,988,360 00
Bounty.....	11,000 00
	\$9,122,054 87

The General Fund State debt is all paid, and the item of \$122,694.87, included above, represents the amount required to yield, at the rate of six per cent, the sum necessary to pay the Indian annuities. The balance of \$11,000, Bounty Debt for which funds are provided, had not been presented for redemption at the close of the fiscal year. A balance of \$1,451,628.48 in the Canal Sinking Fund, leaves the amount of that debt, unprovided for, September 30, 1879, at \$7,536,-731.52.

The State Debt on the 30th September, 1878, after deducting the unapplied balance of the

Sinking Funds, amounted to..... \$8,130,726 69

On the 30th September, 1879 (including \$122,-

694.87), to 7,659,426 39

Showing net contributions to the Sinking

Fund of..... \$471,300 30

The actual reduction of the debt during the

same period by cancellation being \$32,000 00

TAXATION.

For the fiscal year 1879, the tax levy was at the rate of $2\frac{863}{1000}$ mills, which is expected to produce the sum of \$7,690,-416.34, while that of the previous year, being at the rate of 2½ mills, produced the sum of \$7,941,297.94.

Among the questions which public sentiment will press upon your attention, is a revision of the laws for the assessment of property as a basis of taxation. The laws now in force are imperfect and unequal in their operation. By unjust discriminations, enormous values of property which should contribute a fair proportion to the public revenues are allowed to escape taxation, thus imposing onerous burdens upon a portion of our citizens. Perhaps no subject demands more careful consideration, and a wiser exercise of sound judgment. The important and complex questions involved require close, constant and long-continued examination, and it is doubted whether the necessary attention can be devoted to them during an ordinary legislative session. It is, therefore, suggested that the subject be placed in the hands of a Commission fairly representing the agricultural, commercial and other material interests of the State, to perfect a plan for the consideration of the next Legislature. It is believed that such course would give the best promise of an early and final determination of this important question.

CANALS.

The aggregate receipts of the canals from tolls, and all miscellaneous sources, for the fiscal year ending September 30, 1879, were \$921,252.81, being less than the preceding year by \$67,398.54. The total expenses for ordinary repairs, superintendence and collection of tolls were \$751,774.82, or \$12,-025.85 more than the year previous. The surplus revenues were \$169,477.99, showing a decrease, as compared with the preceding year, of \$79,424.39.

The constitutional requirements in regard to the canal debt for the year are as follows :

For interest on canal debt.....	\$540,822 00
For sinking fund for the extinguishment of the debt.....	450,000 00
Total.....	\$990,822 00
Surplus revenues applied	169,477 99
Deficiency to be provided for by taxation.....	\$821,344 01
Expenses for extraordinary repairs and damages paid from taxes the past year were	139,478 43
Total amount contributed by the taxpayers on account of the canals for the year ...	\$960,822 44

The laws regulating canal management were enacted prior to the change in the Constitution creating the present mode of administration, and are in many respects insufficient for public requirements. Some legislation is therefore necessary to accomplish all that was contemplated by the new system.

PUBLIC EDUCATION.

There is no subject in which the people have a deeper concern than that of public education. The policy of the State in relation to its school system has been steadily progressive, and each decade has witnessed an important advance in this great interest. Pre-eminent in population and intelligence. New York has no prouder record than her educational development.

Wisely enacted laws provide for the support of common, or primary schools, everywhere within reach of the humblest child, and permit local communities to establish such advanced grades of academic education, as they may desire for the more ambitious students. The best interests of the State will be promoted by placing the highest educational advantages within the reach of all who seek them.

The policy of making women eligible as school officers has been adopted in several States with beneficial results, and the question is exciting much discussion in this State. Women are equally competent with men for this duty, and it cannot be doubted that their admission to representation would largely increase the efficiency of our school management. The favorable attention of the Legislature is earnestly directed to this subject.

The Superintendent of Public Instruction has furnished from the statistics gathered by him, the following statement relative to the support of the common schools, and the attendance of pupils, during the year ending September 30, 1879 :

COMMON SCHOOL STATISTICS.

Total receipts, including balance on hand September 30, 1878	\$11,293,716 40
Total expenditures	10,323,961 90
Amount paid for teachers' wages.....	7,600,392 00
Amount paid for school-houses, repairs, furniture, etc.....	1,205,687 03
Estimated value of school-houses and sites....	30,767,479 00
Number of school-houses	11,862
Number of school districts, exclusive of cities,	11,280
Number of teachers employed for the legal term of school.....	20,295
Number of teachers employed during any portion of the year	30,669
Number of children attending public schools..	1,030,041
Number of persons attending Normal schools,	5,385
Number of children of school age in private schools	114,460
Number of volumes in school district libraries,	755,380
Number of persons in the State between the ages of five and twenty-one years.....	1,628,727

STATE PRISONS.

Under the operation of the recent amendment to the Constitution, the State prisons have been nearly self-supporting the past year. Gratifying as this may appear in a general view, it has been accomplished at some detriment to certain mechanical interests with which prison manufactures have come in direct competition. Many intelligent and industrious mechanics represent that great hardship proceeds from this cause. While it is desirable that the prisons should be as little burdensome as possible, care should be taken to avoid all unnecessary interference with industrial interests.

The earnings and expenditures of the several prisons of the State for the year ending September 30, 1879, are shown in the following exhibit :

AUBURN.

Earnings	\$128,694 00	
Expenses	126,505 72	
Surplus		\$2,188 28

SING SING.

Earnings	\$226,907 04	
Expenses	187,693 23	
Surplus		39,213 81
Total surplus.....		<u>\$41,402 09</u>

CLINTON.

Earnings	\$46,762 75	
Expenses	108,539 02	
Deficiency		\$61,776 27
Total deficiency.....		<u>\$20,374 18</u>

INSURANCE.

There are doing business in this State 178 fire insurance companies, classified as follows: New York, 89; other States, 68; Foreign, 21; having, in total assets, \$139,093,601; liabilities, including capital stock, \$98,558,223; net surplus, \$40,535,377.

While these companies present this financial showing, there is much cause for solicitude in the fact that the losses and expenditures during the last six months exceed the gross earnings by \$4,361,188; also that the previous surplus has been diminished by \$3,051,051; and of the eighty-three New York companies only ten have kept up their surplus. Such facts strongly indicate that the companies are either insuring at too low rates, or they are conducting business in an expensive and hazardous manner.

Of the 3,693 fires which occurred in the United States in 1878, involving losses amounting to \$19,000,000, more than 2,000, with an aggregate loss of \$11,000,000, were of incendiary or undiscovered origin. In view thereof, it is worthy of consideration whether additional legislation is not required to suppress the crime of incendiarism.

There are at present fifteen life insurance companies organized and doing business under the laws of this State, with aggregate assets of \$206,552,630; liabilities, \$174,793,338; surplus to policy-holders, \$31,759,292; and nineteen other State companies with assets of \$197,526,513; liabilities, \$164,792,287; surplus, \$32,734,226. Seventeen marine insurance companies are also in operation (eight of which are organized under the laws of New York), with assets amounting to \$21,000,000 and a net surplus of \$2,700,000.

The laws of 1853 require Foreign fire and life insurance companies to deposit securities in the Insurance Department of the State; but as no such requirement is made of marine companies, the question arises for the Legislature to deter-

mine whether or not there is substantial reason for any exception in their case.

BANKS.

On the 1st of October last, seventy-three banks of discount and deposit were doing business under the laws of the State, with an aggregate capital of \$19,353,200.

The number of savings banks reporting July 1, 1879, was one hundred and thirty-one, of which twelve were closing and not receiving new deposits.

The total assets were.....	\$341,368,686
Due depositors	304,692,339
Surplus	36,326,929
Number of depositors.....	827,852

The increase in the several items for the last preceding six months, was:

Assets.....	\$7,131,375
Deposits.....	5,617,700
Surplus	1,773,667
Number of depositors.....	17,835

The improvement thus shown in the condition of the savings banks is encouraging, as contrasted with the frequent disasters of the past few years.

The reduced income from investments renders economy of management the more important. That such economy is feasible, is evident from the fact, that while each depositor's account in the savings banks of this State costs for management \$1.63, the same service in Connecticut and New Hampshire is but \$1.11, and in Massachusetts only 89 cents.

There were on July 1, eight Trust companies with

an aggregate capital of	\$6,851,875
Assets.....	66,240,568
Liabilities, exclusive of capital.....	53,855,629

Surplus	5,533,063
Four Mortgage and Guaranty companies with an aggregate capital of	4,525,500
Surplus	<u>1,024,551</u>

NATIONAL GUARD.

The National Guard is represented as being in excellent condition, both in general composition and equipment. The discipline of the organization has been for several years steadily improving, and whenever its services have been required it has never failed promptly and cheerfully to perform efficient duty. Happily no necessity has arisen during the past year for active service, except in a few instances where guard duty was required at executions.

The organization consists of seven divisions and thirteen brigades, embracing the several branches of service, as follows: Twenty-three regiments, six battalions, and thirty-three separate companies of infantry; one regiment and eleven separate troops of cavalry; and of artillery, one battalion, nine separate light batteries, and two batteries armed with Gatling guns. In the aggregate number there are 20,280 officers and enlisted men.

The Military Code of the State is composed of ancient enactments that have been amended from time to time as occasion required. Thus incumbered, it has become in many respects incongruous and impracticable. It is recommended, therefore, that a commission composed of officers of suitable rank in the National Guard be authorized to codify the military laws, and to revise the regulations accordingly.

In the firm belief that an effective military force, prepared for instant duty, is a useful conservator of the public peace, the National Guard is commended to your favorable consideration.

THE NEW CAPITOL.

The Commissioners in charge of the erection of the New Capitol report that the total amount expended to date is \$9,600,681.65. The amount standing charged to this account on the books of the Comptroller is \$10,261,870.84. The difference between these two statements is assumed to be in the cost of land and other expenses incurred prior to the beginning of the construction account. Of the sum first mentioned \$132,583.45 were paid for furnishing the completed portion of the building.

The last appropriation of \$500,000 for the continuation of the work was made not available by the terms of the act, until the Commissioners had filed a written certificate with the Secretary of State, to the effect that after examining the estimates, plans and specifications, they were satisfied the building could be completed at a further cost of \$3,500,000 over and above that appropriation. This provision was complied with, and the Commissioners claim that the record of work performed during the year demonstrates the correctness of their estimates, and proves that if there shall be no considerable advance in the price of labor and materials the building can be completed for the sum stated. The Commissioners are also of opinion that the prosecution of the work to the best advantage will require appropriations of \$1,500,000 for the ensuing year, and \$1,000,000 for each of the two years thereafter, and that the entire building can be made ready for occupation within three years from this time.

As a member of the New Capitol Commission in 1868, my most earnest endeavors were made in opposition to commencing the Capitol, in the belief that it could not be constructed within the limit of \$4,000,000, as then fixed by the Legislature; but the Commission decided to proceed and the building was begun. The work has progressed under appropriations by successive Legislatures, notwithstanding the pronounced

objections of the last three Executives, until it is now so far advanced that there seems to be no rational course left but to provide for its completion in the most advantageous manner possible. In this view it is suggested whether it may not be best to provide the necessary means by a loan under the twelfth section of article seven of the Constitution, by which arrangement a portion of the burden would be placed upon the future taxpayers, who will enjoy the use of this grand but costly edifice.

INSANE ASYLUMS AND CHARITABLE INSTITUTIONS.

From statistics furnished by the State Board of Charities, there were in the several asylums and alms-houses on the 1st of October, 1879, of insane persons, as follows: Males, 3,961 ; females, 5,054 ; total, 9,015.

There were of insane persons in all public and private institutions :

November 30, 1878.....	8,771
November 30, 1877.....	7,921

The condition of the insane in the poor-houses of the State is pitiable in the extreme, and urgently demands attention. The last Legislature provided for the conversion of the State Inebriate Asylum, at Binghamton, into an asylum for the chronic insane. The building is now being adapted to this purpose, and will soon be ready for 300 patients. The same Legislature also made provision for additional accommodations for 250 women at the Willard Asylum. The buildings are now being erected, and will probably be available early in the coming summer. There are in this asylum about 200 female patients in excess of its proper capacity, so that the new buildings will only relieve the present crowded condition of the institution.

The annual report of the State Board of Charities will contain much valuable and interesting information in detail with

reference to the unfortunate classes under their supervision, and it will doubtless receive your considerate attention.

COUNTY JAILS AND POOR-HOUSES.

Many of the county jails and poor-houses in the State are represented to be a disgrace to our civilization. Instead of serving their legitimate purposes they are said to appear more like nurseries of immorality, squalor and crime. Philanthropic citizens who have labored zealously to ameliorate the condition of the unfortunate inmates of these institutions are urgent in their demands for reformation. The indiscriminate confinement of petty offenders and persons awaiting the action of grand juries, in the same apartments with the most hardened criminals, must almost of necessity result in increasing the degradation of those who should be shielded from malign influences while in the custody of the authorities. The practice of confining felons in the penitentiaries instead of the State prisons is also deemed unwise and injurious. While referring to this subject it is suggested that an extension of the jurisdiction of the State Board of Charities over the local prisons and poor-houses might lead to beneficial results in an important direction.

EMIGRATION.

The whole number of passengers from foreign ports landed in New York from January 1 to December 1, 1879, was 167,665, of whom 39,560 were citizens, or persons who had previously been in the United States; and 128,105 were aliens. The number of steerage passengers landed at Castle Garden was 127,271, being an increase of 50,726 over the preceding year, and largely in excess of any year since 1873. It is expected that emigration next season will show a corresponding increase.

The number of emigrants remaining in the State Emigrant Refuge and hospitals is 484, of which number 81 are insane.

At the Castle Garden Labor Bureau employment was procured during the same period for 15,235 emigrants, and a large number were forwarded to inland destinations wholly or in part at the expense of the Commissioners of Emigration.

Of the appropriation of \$170,000 made by the Legislature for the maintenance of the State Emigrant institutions for the year beginning May 1, 1879, there have been expended \$103,-295.14, leaving \$66,704.86 for the remaining five months of the year.

The decision of the Supreme Court of the United States, rendered March 20, 1876, declaring unconstitutional and void the laws of the State requiring indemnity or guarantee by commutation for the support of indigent emigrants, has imposed a serious burden upon the State. In obedience to the direction of the Legislature, the Commissioners of Emigration appealed to Congress for relief, but no result has yet been secured. A bill to regulate emigration, approved by all the Representatives from this State, has recently been introduced in Congress, and it is hoped that it will receive favorable consideration. It is recommended, therefore, that the Legislature take some formal action in behalf of the measure.

QUARANTINE.

During the past season 1,142 vessels from ports liable to visitations of yellow fever were examined by the Quarantine officers at the port of New York, of which 284 were from ports known to be infected. Ninety-five vessels had 256 cases of yellow fever on their passage, or in port under quarantine. Fifty cases of fever were treated in the Quarantine hospitals, of which twenty-nine were yellow fever. Of the latter eleven proved fatal.

It is gratifying in this connection to state that the National Board of Health, after careful investigation of the methods in vogue at the different ports, unanimously recommended the principles and modes practiced at the port of New York,

as affording the greatest protection against disease and the least interference with the freedom of commerce.

RAILROAD TRANSPORTATION.

For several years there has been an increasing interest in the subject of railroad transportation. The relations of railroads to the public are of vast importance and demand careful examination by the Legislature. In its inter-State aspect the subject can only be treated by Congress. But the internal interests of the people of this State, comprising one-tenth of the population of the Union, must depend upon local legislation. Responding to popular sentiment, the last Assembly appointed a special committee to investigate the management of the railroads, with instructions to report to the next Legislature. The members of the committee have devoted themselves assiduously to this duty, and will, in due time, present their conclusions for your consideration.

The question of railroad transportation affects directly or indirectly every industrial and commercial interest; and the public have the right to demand that freight tariffs shall be uniform for like service, without discrimination as between citizens or communities, and that they shall also have all reasonable publicity. This should be secured by just and practical regulations.

ELECTION LAWS.

The foundations of free government rest upon the purity of the ballot. Every elector is entitled to have his vote honestly counted and to be protected from all fraudulent practices in the conduct of elections. This is the vital element of National life, and in many respects it is the most difficult to shield from abuse. All enactments, whether National or State, calculated to protect the freedom and integrity of the elective franchise, are earnestly to be commended.

In consequence of enormous election frauds perpetrated in

the city of New York in former years, very effective laws have been enacted for that locality. But in other cities defective statutes are still in operation, and in some of them elections are conducted in a grossly fraudulent manner. Remedy has heretofore been sought in more perfect legislation, but obstacles have arisen to defeat the desired object. A well-guarded registry law for all incorporated villages is also believed to be necessary for the correction of existing evils. In view of the importance which these subjects bear to the highest interests of the people, it is hoped they will receive your early consideration.

EXCISE LAWS.

Much dissatisfaction prevails in regard to the Excise laws, and it is essential that some effort be made to render them more effective. The laws are constantly violated or evaded, and inadequate attention is given to their enforcement. Indeed, the chief difficulty seems to be to determine the scope or meaning of the existing statutes on this subject. Under recent and somewhat conflicting decisions, Excise commissioners are left with large discretionary powers. The will of the commissioners is substituted for the mandates of law, hence conflicting interpretations obtain within the jurisdiction of the different boards of Excise. What is needed is a carefully matured act that can be plainly understood and faithfully executed. Although beset with difficulties, it is your duty to seek an intelligent solution of the matter.

HARBOR MASTERS.

The Supreme Court of the United States having declared that portion of the law of the State unconstitutional which authorizes the collection of fees by Harbor Masters, these officers are left to perform important duties without legal remuneration. If the services rendered by them are to be continued, it will be necessary for the Legislature to provide for their compensation in some different form.

PILOTAGE.

The laws relating to pilotage in the harbor of New York cause much complaint from those engaged in commerce. It is represented that the legal charge for piloting a large steamship in and out of that port is larger than the wages of the captain for the round European trip. If this be true, a remedy is surely needed. The growing competition of other sea-ports for our vast foreign trade renders it imperative that the commerce of New York shall be relieved of all unnecessary burdens. The future prosperity of the State is largely dependent upon the continuance of our commercial supremacy, and no private interest should be permitted to interfere with that great object.

INDIANS.

Attention has been called to the condition of the Indians still remaining within the limits of the State, more especially those residing on the Onondaga reservation. According to the representations of well-informed citizens, there seem to be ample reasons for the adoption of such measures as will conduce to the moral and material welfare of this peculiar people. Much must necessarily depend in this direction upon the exercise of wise and beneficent influences; but as the State has long sustained the relation of guardian to the remnants of Indian tribes within its domain, the interests involved in their situation are commended to your thoughtful consideration.

LOCAL INDEBTEDNESS.

Serious embarrassment exists in different sections of the State on account of the large amount of town indebtedness incurred for the most part in aid of railroad enterprises. In some instances towns are being depopulated in consequence of the high rate of taxation rendered necessary to pay the interest on their bonds. The value of property is also depreciating; and looking forward to the maturity of the debt, the prospect becomes still more discouraging. The only remedy

seems to be in refunding the indebtedness, so as to reduce the rate of interest. This, however, requires an improved credit; and it is very desirable that some measure be devised, if possible, to enable the towns to accomplish this object.

MUNICIPAL AFFAIRS.

Municipal affairs are prolific subjects of legislation and will doubtless occupy much of your attention. In dealing with them it should be remembered that the restoration of specie payments affords a favorable opportunity for the readjustment of public expenditures, many of which, established during the period of inflation and fixed at rates now extravagant, have become needless burdens upon the taxpayers. Especially is this true in the city of New York. Overburdened with debt largely created by the criminality of faithless officials, the expenses of the city government should be reduced to a frugal and economical basis.

All measures calculated to simplify the methods and promote the stability of local as well as State administration, or secure efficient and economical discharge of official duty are earnestly commended to your favorable consideration and support.

CONCLUSION.

We enter upon our duties under circumstances which mark an interesting event in the history of the State. For the first time since the organization of our State government in 1777, the executive officers and the members of both branches of the Legislature were chosen simultaneously at the recent election. A trust of unusual magnitude, therefore, is committed to us, for the faithful performance of which we shall justly be held to strict accountability.

Commissioned as the representatives of a grand constituency, unequaled in enterprise, wealth, and power, may we be impressed with the gravity of our responsibilities, and solmenly resolve to be guided by worthy motives in every official action.

ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *January 16, 1880.* }

To the Legislature :

You are herewith presented with the report of the Agent of the State, appointed by my predecessor pursuant to the provisions of chapter 134 of the laws of 1878, in relation to infectious and contagious diseases of animals.

It will be observed that the sum heretofore appropriated for this purpose has been exhausted ; and liabilities have been incurred amounting to about \$16,000. In view of this fact, it has seemed proper for me to direct the suspension of all work and expense until the Legislature shall have taken action, notwithstanding the urgent representation of the Secretary of the State Agricultural Society, of the necessity for continuing the work.

Your early attention to the subject is respectfully directed.

ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *January 31, 1880.* }

Honorable SAMUEL A. BOWEN, *Judge of the County of Otsego, Cooperstown, N. Y.*

SIR: It is my duty to inform you, that charges have been preferred against you "for conspiracy to stop the course of justice," etc., which said charges have been duly entered and filed in this office.

Herewith you will find a true and correct copy of the same, to which you will please make answer at as early a day as practicable.

Very respectfully,

ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, *February 7, 1880.* }NATHANIEL M. WHITE, ESQ., *District Attorney, Syracuse,
County of Onondaga, N. Y.*

SIR: Charges have been preferred against you for "lax or wilful violation" of your oath of office; which charges have been duly entered and placed on file in this office. A true and correct copy of the same is herewith presented, to which you are requested to make answer in writing at as early a day as practicable.

Very respectfully,

ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *February 14, 1880.* }

Whereas, At a meeting of the Governors of the original Thirteen States, in Philadelphia, on the 19th day of October, 1879, it was

"Resolved, That we, the Governors and representatives of the original Thirteen Colonies, convened at Independence Hall, this 18th day of October, 1879, knowing that the purposes for which we assembled meet the hearty approbation of our constituents, do hereby commend to the people of the United States such a celebration of the centennial anniversary of the surrender of Cornwallis at Yorktown, as shall befit the historical significance of that event and the present greatness of the nation.

"Resolved, That a committee of one from each State, to be nominated by the Governors thereof, of which committee Governor Holliday shall be chairman, be appointed to make proper arrangements for such celebration."

Therefore, in accordance with the foregoing, the Honorable JOHN A. KING is hereby designated as the representative of the State of New York, for the purpose indicated.

[L. S.]

ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *February* 16, 1880. }

To the Legislature :

The Revised Statutes provide that the Governor shall be the keeper of the Great Seal of the State. In practice, however, the Secretary of State is the actual keeper of the Great Seal : and the custom for many years has been for the Governor to sign certificates in blank, to be issued by the Secretary of State in due form when required.

In order therefore, that the law may be made to conform to the established usage, and place the responsibility for the correctness of official papers upon the officer who really executes them, it is recommended that the Statute be so amended as to make the Secretary of State the official custodian of the Great Seal.

This change of the law will relieve the Governor of an onerous but useless duty, and simplify the form of official action to which it relates.

ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *February* 27, 1880. }

It appearing by the certificate of the District Attorney of the County of Albany, that John Hughes has been indicted by the Grand Jury of said County, for the crime of murder in the first degree, and that the trial of said Hughes, upon said indictment, is about to be commenced, and that the same is an important criminal action ;

Now, upon the request of said District Attorney, I, Alonzo B. Cornell, Governor of the State of New York, pursuant to chapter three hundred and twenty-three of the laws of 1874, do hereby assign and appoint Hon. Hamilton Ward, Coun-

sellor at Law, as counsel on behalf of the People to assist upon the trial of the said John Hughes upon said indictment.

Done at the Capitol at the city of Albany, this 27th day
[L. S.] of February, 1880.

ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *March 1, 1880.* {

To the Assembly :

Assembly bill No. 89, entitled "An act to amend chapter 863 of the laws of 1873, entitled 'An act to amend the charter of the city of Brooklyn,' and the various amendments thereof," is herewith returned without approval.

The object of this bill is to extend the term for which constables in the city of Brooklyn shall be elected, from one to two years. In my opinion these officers should remain as at present, subject to the review of their constituencies at each annual election.

ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *March 3, 1880.* {

To the Assembly :

Assembly bill No. 19, entitled "An act to amend chapter 686 of the laws of 1872, entitled 'An act to amend an act entitled an act to erect the village of Middleburgh into a separate road district,' and the several acts amendatory thereof," is herewith returned without my approval.

Section 18, of article 3, of the Constitution, and the laws passed in pursuance thereof, give Boards of Supervisors full jurisdiction over the subject of road districts. It is believed, therefore, that this bill is quite unnecessary, if not

actually in conflict with the constitutional provisions on the subject.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 38, CREATING ADDITIONAL
OFFICERS IN KINGS COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *March* 4, 1880. }

To the Assembly :

Assembly bill No. 38, entitled "An act to amend chapter 353 of the laws of 1878, entitled 'An act in relation to the term of office of the Clerk and Assistant Clerk of the Board of Supervisors of Kings county. and of the engineers of the county court-house in said county,'" is hereby returned without my approval.

Existing laws confer upon the Board of Supervisors all requisite powers for the employment of persons for the transaction of necessary business. This bill arbitrarily directs the Supervisors of Kings county to elect an additional clerk and messenger. In my opinion, it ought not to become a law.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 105, RELATIVE TO THE SUPPORT
OF THE POOR IN NIAGARA COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. }
ALBANY, *March* 5, 1880. }

To the Assembly :

Assembly bill No. 105, entitled "An act conferring additional powers upon the Board of Supervisors of the county

of Niagara, relative to expenses for the support of the poor," is herewith returned without my approval.

The object of this bill is to take from the superintendents of the poor the powers and duties given by the general laws of the State, and to transfer them to the supervisors. This is manifestly unwise and improper.

ALONZO B. CORNELL.

IN THE MATTER OF A REQUISITION OF THE GOVERNOR OF
PENNSYLVANIA FOR THE SURRENDER OF JAMES HECK-
HART.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *March 22, 1880.* {

His Excellency, HENRY M. HOYT, *Governor of Pennsylvania* :

SIR : Proper consideration for the rights of a citizen of this State compels me to deny your requisition, dated January 12, 1880, for the surrender of James Heckhart, of Lindley, Steuben county, New York, charged with the crime of larceny committed in the county of Tioga, Pennsylvania.

The papers, upon which the requisition is based show that, on the night of the 18th of December last, a quantity of leaf tobacco of the value of eighty dollars was stolen from the premises of one Adam Miller, in Lawrence, Tioga county, and Miller swears he has good reason to suspect Heckhart of the crime.

From another source it has become known to me that the cause of suspicion against Heckhart is the fact that a quantity of leaf tobacco was found upon his premises in this State, and supposed to be the same tobacco alleged to have been stolen from Miller.

There is no evidence of Heckhart having been in Pennsylvania or having committed the larceny, or that he is really a

fugitive from justice from the State of Pennsylvania.

To allow a citizen to be surrendered under a requisition and taken to another State as a criminal upon so slight foundation for accusation as in this case, would, it seems to me, be very improper; and hence, with all due respect for your Excellency, and the great State of which you are the Executive, the application is declined.

Yours very truly,

ALONZO B. CORNELL

VETO, ASSEMBLY BILL NO. 84, RELATING TO PUBLIC
INSTRUCTION.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *March 22, 1880.* }

To the Assembly:

Assembly bill No. 84, entitled "An act to amend chapter five hundred and fifty-five of the laws of eighteen hundred and sixty-four, entitled 'An act to revise and consolidate the general acts relating to public instruction,'" is herewith returned without approval.

The present law provides that the County Treasurer shall pay to the trustees of school districts the amount of taxes returned as uncollectable. The amendment proposed by this bill provides that the money shall be paid by the treasurer to the collector of the district on the written order of the trustees. As the trustees are the proper custodians of the money, it seems to me that the change proposed is not wise.

ALONZO B. CORNELL

VETO, ASSEMBLY BILL NO. 39, AMENDING THE GAME LAW.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *March 29, 1880.* {

To the Assembly :

Assembly bill No. 39, entitled "An act to release all that part of the waters of Lake Ontario, together with its bays and inlets, in the county of Jefferson, and in that part of Oswego county lying between its Jefferson county line and the western line of the town of Mexico, saving and excepting Henderson harbor and bay and within one-half mile of the outlet or mouth of Salmon river, from the operation of the provisions of sections twenty-three and twenty-six of chapter 534 of the laws of eighteen hundred and seventy-nine, entitled 'An act for the preservation of moose, wild deer, birds, fish and other game,' " is herewith returned without approval.

The preservation of game and fish has been for many years a perplexing subject of legislation. The last Legislature enacted a carefully prepared and comprehensive statute to supersede the many and conflicting laws then in force, which was intended as a relief from the constantly recurring demands for special legislation in this respect.

The object of this bill is to release a limited portion of the waters of Lake Ontario from the operation of that act. If there be any reason for exempting this section there are probably equally good reasons for the exemption of other localities; and it may be expected, should this bill take effect, that it will prove only the forerunner of others of like character. If the present law is not satisfactory it should be made so by some general amendment, or repealed altogether. To begin now by releasing one or more localities from its provisions would, in my opinion, be unwise and impolitic.

ALONZO B. CORNELL.

IN THE MATTER OF CHARGES AGAINST JAMES P. SINNOTT,
JUSTICE OF THE MARINE COURT, NEW YORK CITY, NO-
TICE THEREOF.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, *April 2, 1880.* }

SIR: You are hereby informed that charges and specifications against you, of official impropriety and misconduct, have been filed with me, which, if not satisfactorily answered, it will be my constitutional duty to present to the Senate for its action.

A copy of the same is herewith enclosed, to which you are requested to furnish me an answer on or before Saturday the 10th instant.

Please notify me immediately by telegraph of the receipt of this communication.

Yours respectfully,

ALONZO B. CORNELL.

Honorable JAMES P. SINNOTT, *Justice of the Marine Court,*
New York City.

ORDER OF SUPERSEDURE, BUILDING SUPERINTENDENT OF
THE HUDSON RIVER HOSPITAL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, *April 5, 1880.* }

SIR: The Board of Managers of the Hudson River State Hospital having informed me that no building is contemplated during the current year, and, therefore, there will be no occasion for the continued services of the Building Superintendent, you are hereby removed from the office of Building Superintendent of the Hudson River Hospital for the

Insane, to take effect on the fifteenth day of April, 1880, pursuant to chapter 264, laws of 1875.

Very respectfully,

ALONZO B. CORNELL.

TO JAMES S. POST, Esq., *Building Superintendent of the Hudson River Hospital for the Insane, Poughkeepsie, N. Y.*

STATEMENT WITH REFERENCE TO APPROVAL OF SENATE BILL
No. 114, NEW YORK AND BROOKLYN BRIDGE

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *April 7, 1880.*

[Filed with the Secretary of State.]

Memorandum filed with Senate bill No. 114, to provide for the completion and opening for public travel of the New York and Brooklyn bridge, and to authorize the sale and conveyance of certain gores and pieces of land by the trustees thereof.

Careful consideration, and the representations of the Mayors and Comptrollers of the cities of New York and Brooklyn, convince me that this bill should become a law, whereas if it were a new question, it could not receive my approval. Under legislation in various years since 1867, the construction of this bridge has proceeded until \$12,400,000 have already been expended upon it, which would be worse than wasted if the bridge be not completed. It is represented to me that, of the \$2,250,000 appropriated by this bill to complete and open the bridge for traffic, about \$1,000,000 are required to complete contracts made during the past year, which, owing to the subsequent advance in the price of material, could not now be placed at less than fifty per cent advance, and that the Commissioners must have the means in hand before the first of

May, proximo, to enable them to hold these contracts. In the belief, therefore, that the public interests of the two cities will be promoted by this additional investment, my approval to the bill has been given.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 13, INCREASING NOTARIES PUBLIC.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, {
ALBANY, April 8, 1880. }

To the Assembly :

Assembly bill No. 13, entitled "An act to provide for the appointment of additional Notaries Public," is herewith returned without approval.

Existing laws provide for the appointment of 11,674 of these officers in the State, being an average of 91 for each assembly district, which, in my opinion, is more than sufficient for the convenience of the people. It is impossible even now to give adequate attention to the fitness and qualifications of persons proposed for appointment as notaries public, and it is my belief that the number should be diminished rather than increased.

ALONZO B. CORNELL.

STATEMENT WITH REFERENCE TO APPROVAL OF ASSEMBLY BILL
No. 312, FOR THE RELIEF OF CLERKS AND ASSISTANT CLERKS
OF DISTRICT COURTS IN NEW YORK CITY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, April 10, 1880. }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 312, entitled
“An act for the relief of persons who performed the
duties of Clerks and Assistant Clerks of district courts
in the city of New York, in the year 1876.”

A bill similar in its object having been vetoed by my predecessor, under date of March 19, 1877, has caused me to give especial attention to the propriety of this bill becoming a law.

The persons for whose benefit relief is sought were appointed clerks and assistant clerks by Justices of District Courts in the city of New York, in January, 1876, under chapter 438 of the laws of 1872. They entered upon the discharge of their duties and devoted their time to the service of the city. There appears no doubt that the Justices in making the appointments, and the clerks in accepting the same, were sincere in their belief as to the validity of their action. The legality of the appointments was contested by the previous incumbents in an appeal to the courts, which resulted, in the first instance, by judgment of the Court of Common Pleas, in favor of the appointees. This verdict, however, was reversed by the General Term, and the reversal was finally affirmed by the Court of Appeals, thus restoring the previous incumbents to their places. The litigation covered nearly or quite the whole of the year 1876, during which period the duties were performed by the new appointees; but under the final judgment of the courts the salaries were of course, paid to their contestants.

It is admitted that these persons are unable to maintain an action against the city for their services, and hence it may be said they have no legal standing as claimants for compensation. It is certain, however, that the Legislature and the courts have repeatedly provided for the payment of equitable claims which could not be sustained as legal obligations.

Chapters 275 and 300 of the laws of 1876, approved by Governor Tilden, and granting relief respectively to Cornelius Flynn and Patrick McCabe, are identical in purpose with this bill. Both persons named had been appointed assistant clerks of District Courts in the city of New York, under the same act precisely, as those claiming compensation in this case, and deposed under similar circumstances.

The Court of Appeals, September, 1855, in the case of the town of Guilford against the Board of Supervisors of Chenango county, declared, in an opinion by Judge Denio, that "the Legislature has power to levy a tax upon the taxable property of a town and appropriate the same to the payment of a claim made by an individual against the town. Nor is it a valid objection to the exercise of such power that the claim to satisfy which the tax is levied is not recoverable by action against the town."

In the same court, in January, 1874, in the case of the town of Duanesburgh *versus* Jenkins, Judge Johnson says: "A town is, as to the powers it shall possess and the functions it shall perform, the creature of the legislative will.
* * * The power to impose special burdens upon localities, and to determine the cases in which it is suitable to impose them, belongs to the law-making power."

The same court, at the same term, in the case of the People *ex rel. Williams versus* Dayton, by Judge Andrews, declared, "Nor is the Legislature restricted in granting relief to such grounds as would be requisite to maintain an action against

an individual in courts of justice. Many other considerations may and often should be considered in the dealings of a State with its citizens."

It being clear that the persons to whom relief is granted by this bill were *de facto* clerks, and as such performed all the functions, their title to office also affirmed in the outset by a decision of the Court of Common Pleas, there can be no reasonable question of an equitable claim for their services. The legislative precedents cited, and the several declarations of the highest court in the State as to the power of the Legislature to grant relief in equity cases, justify, in my opinion, the approval of this bill.

ALONZO B. CORNELL.

IN THE MATTER OF CHARGES AGAINST JAMES P SINNOTT, JUSTICE
OF THE MARINE COURT, CITY OF NEW YORK FURTHER STATE-
MENTS IN ANSWER REQUESTED.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *April* 10, 1880. (

SIR: Your answer, under date of the 8th instant, to the charges and specifications of the Association of the Bar of New York, denying the truth thereof, which has just been received, is not satisfactory, in that it does not attempt to answer or explain the specifications submitted.

You are therefore, requested to furnish me on or before Saturday, the 17th instant, any affidavits, in duplicate, of yourself or other persons, which you may desire to submit in answer to any of the specifications, in order that the merits of the case and the propriety of submitting the charges to the Senate, may be speedily determined.

Yours very respectfully,

ALONZO B. CORNELL.

Honorable JAMES P. SINNOTT, *Justice of the Marine Court,*
New York City.

IN THE MATTER OF CHARGES AGAINST JUDGE JAMES P. SINNOTT.
PROOF TO SUBSTANTIATE SAME REQUESTED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *April* 10, 1880. }

SIR: The charges and specifications preferred by the Association of the Bar of the city of New York against James P. Sinnott, Justice of the Marine Court, having been submitted to him, he denies, under the sanctity of his official oath, each and every of the said charges and specifications, and affirms that the same are in each and every part and particular utterly false and destitute of any element of truth.

You are therefore requested to furnish me at your earliest convenience the affidavits in duplicate, of such witnesses as may be available for the purpose of substantiating the charges and specifications, in order that the question of presenting the case to the Senate with recommendation of removal, may be speedily determined.

Yours very respectfully,

ALONZO B. CORNELL.

To the Honorable S. P. NASH, *President of the Association of the Bar of the City of New York.*

MEMORANDUM FILED WITH SENATE BILL MAKING APPROPRIATION
FOR THE NEW CAPITOL.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *April* 20, 1880. }

[Filed with the Secretary of State.]

Memorandum filed with Senate bill No. 139, entitled, "An act making an appropriation to continue the work on the New Capitol building."

This bill, appropriating \$1,500,000 for the continuation of work on the Capitol, has been retained in my hands the full

constitutional period, in order that opportunity might be given for any expression of opposition to the measure. Not a word of disapproval has reached me from any source. My own view in reference to the continuation of this work was stated in the annual message, and it was hoped that provision would be made to submit a proposition to the people for a loan to complete the edifice. The Legislature, however, in its wisdom, has determined that the necessary funds should be provided by taxation. As no alternative remains for me but to approve or disapprove this bill, the former course is adopted in the belief that the best interests of the State require the early completion of the Capitol.

ALONZO B. CORNELL.

REPORT OF COMPTROLLER ON THE BINGHAMTON ASYLUM,
RECOMMENDING REMOVAL OF THE TRUSTEES THEREOF.

STATE OF NEW YORK:

COMPTROLLER'S OFFICE,)
ALBANY, April 23, 1880. (

To His Excellency A. B. Cornell:

SIR: The very large appropriations asked for by the Trustees of the Binghamton Asylum for the Chronic Insane, greatly in excess of the sum originally thought sufficient to make the necessary alterations in the Inebriate Asylum building, to fit it for its new uses, having attracted my attention, I requested Mr. Letchworth, President of the State Board of Charities, and Mr. Gallien, the Deputy Comptroller, to proceed to Binghamton and make an examination of the expenditures of said Board. I have the honor to submit their report.

I have carefully considered the facts therein mentioned and have arrived at the following conclusions:

1st. The Trustees have violated the law in that they have departed materially from the plans approved by the State Board of Charities, and have neglected to submit for approval other plans, specifications and estimates involving large expenditures. [Sec. 5, chap. 280, Laws of 1879.

2d. They have violated the law in that they did not do the work by contract, but did do a great part of it by day's work. [Sec. 5, chap. 280, Laws of 1879.

3d. They have violated the law in that they have expended largely in excess of the original appropriation, and have contracted for work in anticipation of an appropriation. [Sec. 5, chap. 280, Laws of 1879, and chap. 192, Laws of 1876, page 180.

4th. They have violated the law in that they have agreed by resolution to pay the architect and building superintendent in excess of the \$6 per day, provided by the statute. [Sec. 5, chap. 280, Laws of 1879.

5th. The report shows very conclusively that the entire management has been careless, negligent, and of an exceedingly extravagant nature; an economical disbursement of the State's moneys seemingly being lost sight of entirely. It is intended gradually to enlarge the Binghamton Asylum to the capacity of 1,500 inmates. Large amounts of money must annually be expended to accomplish that end. An economical and judicious application of these sums rests entirely upon the careful management of the Trustees. In fact, the whole financial success of the institution depends upon them.

In view of the facts brought out in the joint report of Mr. Letchworth and Mr. Gallien, I do not see how the future success of the institution can be attained under the present management. I therefore recommend the removal of the Trustees appointed by virtue of chapter 280, Laws of 1879.

With great respect,

(Signed)

J. W. WADSWORTH, *Comptroller*.

SPECIAL MESSAGE RECOMMENDING REMOVAL OF THE TRUSTEES.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *April 28, 1880.* (*To the Senate :*

Your attention is respectfully called to the accompanying letter of the Comptroller charging Alvin Devereux, William S. Smith, Edward D. Van Slyck, Garvis Prince, William E. Knight, Samuel D. Halliday, Rodney A. Ford, Erastus Ross, and Frederick O. Cable, as Trustees of the Binghamton Asylum for the Chronic Insane, appointed pursuant to chapter 280 of the Laws of 1879, with violations of law and extravagance in the management of the official trust confided to them, in the manner and instances set forth and specified therein. The report of the Deputy Comptroller and President of the State Board of Charities in reference to the same subject is also herewith submitted.

Assuming from the official reports above mentioned that the charges referred to are true, you are hereby recommended to remove the said Alvin Devereux, William S. Smith, Edward D. Van Slyck, Garvis Prince, William E. Knight, Samuel D. Halliday, Rodney A. Ford, Erastus Ross and Frederick O. Cable as Trustees of the said asylum.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 35, PROHIBITING CONSTRUCTION OF BUILDINGS OF COMBUSTIBLE MATERIAL IN CERTAIN STREETS OF NEW YORK CITY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *May 3, 1880.* (*To the Senate :*

Senate bill No. 35, entitled "An act to prohibit the construction of buildings of wood or other combustible materials

in a certain portion of the city of New York. is herewith returned without approval.

This bill provides that "no exterior bearing wall or roof of any dwelling house or other building" hereafter erected in the city of New York, west of Eighth avenue, between Fifty-ninth and One Hundred and Twenty-fifth streets. "shall be constructed in whole or in part of wood or other combustible material." The probable intent is that the outer walls and covering of the roofs shall not be of wood or other combustible material. Unfortunately, however, the language employed does not clearly express this meaning, and is, therefore, capable of different interpretation. In a measure which so seriously affects private rights for the public good as the bill under consideration, especial care should be taken to clothe the enactment in plain and unmistakable language which will not require judicial decision to determine its meaning, otherwise the citizen will be rendered liable to imposition and annoyance from the unreasonable exactions of petty officials.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 247, RELATING TO THE ASSESSMENT AND COLLECTION OF TAXES.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May* 4, 1880. }

To the Senate:

Senate bill No. 247, entitled "An act to amend chapter 37 of the laws of 1855, entitled 'An act amendatory of the acts for the assessment and collection of taxes,'" is herewith returned without approval.

The necessity of a revision of the laws for the assessment and collection of the public revenue is fully appreciated, and

it is my sincere desire to co-operate with the Legislature in maturing any measure which will insure a more equitable distribution of the burden of taxation. The present bill would not, in my opinion, promote this object. On the contrary, it would fail to produce any material revenue, and would tend to drive from the State a large amount of capital which, in times of financial stress, is sent here for temporary use, thereby giving great relief to the borrowing classes and affording additional facilities for commercial transactions. Our great metropolis has become one of the principal financial centres of the world, and within a few years has attracted vast amounts of capital from other countries, the use of which has to a great extent modified the rate of interest in the State. Were this bill to become a law, the first result would be to deprive our people of the benefits derived from the influx of this foreign capital, which would seek other markets and thus increase the commercial facilities of rival cities.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 237, FOR THE PRESERVATION
OF FISH IN LOON LAKE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *May* 10, 1880. }

To the Assembly:

Assembly bill No. 237, entitled "An act for the preservation of fish in the waters of Loon lake, in the county of Steuben," is herewith returned without approval.

The object sought to be attained by this bill seems to be already abundantly provided for by chapter 534 of the laws of 1879. If any remedy is necessary beyond what that statute furnishes, the Board of Supervisors of Steuben county is authorized by chapter 482 of the laws of 1875, to provide it.

The Constitution provides against certain specific local legislation, and then declares that "the Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws." The Legislature has, in obedience to this injunction, enacted very complete and effective general laws for the preservation of fish and game, and it would seem to be antagonistic to the spirit of the Constitution to fill up the statute books with local laws on the same subject.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, RELATIVE TO RAILROAD IN WATER STREET,
BROOKLYN.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *May* 14, 1880. }

To the Assembly:

Assembly bill, not printed, entitled "An act to prohibit the Mayor and Common Council of the city of Brooklyn from authorizing any railroad corporation to construct its road upon any portion of Water street in said city, not named in the charter of such railroad corporation," is herewith returned without approval.

The object of this bill is to take from the Mayor and Common Council of the City of Brooklyn authority vested in them by chapter 585 of the Laws of 1874, to change the route of the elevated railway created by that act, to streets which they should deem more suitable for carrying out the objects contemplated therein. The consideration of a change of the route is now pending in the Common Council, and it cannot be doubted that the members of that body are quite competent to deal with the question intelligently. They have full opportunity to examine the subject in all of its details, and should

be permitted to act upon it according to the merits of all interests involved. The case would be very different if the Common Council had not already proceeded to act under the existing authority. If it were merely a question of changing the conditions under which the Mayor and Common Council might act, before taking cognizance of the matter, there could perhaps, be no serious objection to the proposition. In view of the present circumstances, however, it seems to me that interference with the pending action of the local authorities is wholly unwarranted.

ALONZO B. CORNELL.

SPECIAL MESSAGE ANNOUNCING THE DEATH OF THE HONORABLE
SANFORD E. CHURCH, CHIEF JUDGE OF THE COURT OF APPEALS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *May 17, 1880.* (

To the Legislature :

It is my painful duty to announce to the Legislature the death of the Chief Judge of the Court of Appeals. On Friday, the 14th instant, at his home in the village of Albion, Sanford E. Church passed from this life, without note or warning. Almost in the twinkling of an eye the strong man was summoned while in active discharge of his judicial duties, into the presence of his Maker, the Great Judge of all. The tidings of his death have been everywhere received by the people with profoundest sorrow. Expressions denoting a deep sense of the great loss that has befallen the State are universal and unchallenged.

For nearly forty years Judge Church has been a conspicuous figure in the public affairs of the State. Possessing superior ability and untiring devotion to duty, combined with high character and unquestioned integrity, he early secured the confidence of the people, and maintained it

throughout his long and eventful career. Positive, fearless and consistent in his political course, and faithful to those who shared his views, he merited and enjoyed the favor of his party in a remarkable degree. In official service his record is an enviable one. As Member of the Assembly, District-Attorney, Lieutenant-Governor, Comptroller, Member of the Constitutional Convention, and Chief Judge of the Court of Appeals, he acquitted himself with unusual credit. In every capacity or association he uniformly proved himself to be a leader of men. At the bar, in the councils of his party, and in all deliberative bodies, he occupied a place in the front rank, wielding an influence inferior to none, and equalled by few. In social life, his genial manners made him always a welcome guest, while the purity of his private life, and the happiness of his domestic relations, present a symmetry of character and an example worthy of emulation.

Called by the people to preside over our highest court just ten years ago to-day, Judge Church discharged his great trust with eminent success and fidelity. His former partisanship caused him, perhaps, in the beginning, to be distrusted by many of opposite political opinions; but his impartiality and patriotic bearing soon dispelled every doubt. And it can now be truthfully said that never in the history of our State has the Appellate Court enjoyed the confidence of the people in a higher degree than during the period of his service as the presiding Judge.

The awful suddenness with which this distinguished career has been arrested furnishes an admonition which we may well heed. By this mysterious dispensation of Providence should we not be warned again of the uncertainty of life? Although sudden deaths are of almost daily occurrence, it is only when a prominent life is thus removed that we pause for contemplation. Seldom is the nearness of the dread messenger so

forcibly illustrated as in this instance. In a single hour this learned man, devoting his mind to the solution of legal questions, is changed into inanimate clay! A happy family, secure in the affections of a kind husband and fond parent, is plunged into the deepest affliction and bereavement!

Believing that the eminent character and distinguished public services of this statesman and jurist render his memory worthy of especial consideration, you are recommended to take such action as shall seem appropriate, and to make suitable record of the appreciation by a grateful people, of the devoted and intelligent labors of a faithful public servant.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 332, RELATING TO EIGHTEEN
MILE CREEK.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *May* 24, 1880. }

To the Assembly:

Assembly bill No. 332, entitled "An act authorizing the enlargement of the west branch of the Eighteen Mile creek, north of the Erie canal, in the county of Niagara, so as to carry off the surplus waters of the Erie canal, and to prevent the overflow of lands adjacent thereto, and appropriating money for that purpose," is herewith returned without approval.

This bill proposes to authorize the Superintendent of Public Works to enlarge the west branch of the Eighteen Mile creek near Lockport, to enable it to discharge the surplus waters of the Erie canal and prevent the overflow of lands lying adjacent thereto. The bill makes an appropriation of six thousand dollars to pay the expense of the proposed work.

Since the bill has been in my hands, the Superintendent of Public Works has at my request, personally visited and carefully inspected the locality named, to enable him to determine as to the necessity of the proposed improvement. He expresses the opinion that the work is unnecessary, and that the State cannot properly be called upon to make an expenditure for the purpose indicated.

It is, therefore, my opinion, that the bill should not become a law.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 396, IN REGARD TO MARKETS IN
THE CITY OF NEW YORK.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 25, 1880. }

Senate bill, No. 396, entitled "An act in regard to markets in the city of New York," and to provide for the rebuilding of the same, is herewith returned without approval.

The Mayor of the city of New York, the Comptroller and Dock Commissioners, urgently express themselves in opposition to the provisions of this bill. It is also opposed by a large number of prominent citizens who urge that the moderate expenditure authorized is but the beginning of a work which will require much larger sums hereafter to complete it. In view of the fact that every public officer of the city, who has made any representation on the subject, has condemned the bill, it seems to me that it should not become a law. If the proposition has the merit which its friends claim for it, no harm will be done by postponing its consideration until some future day, when it may be acted upon with more intelligence than at present.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH BILL FOR RAISING TAXES UPON
CERTAIN CORPORATIONS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, June 1, 1880. }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 521, entitled "An act to provide for raising taxes for the use of the State upon certain corporations, joint stock companies and associations."

This bill is approved, although it is feared that for want of perfect and comprehensive provisions it may fail to accomplish all that it was evidently intended to do. The exemption of street railroads from taxation is wrong and unjustifiable; but this is not deemed of sufficient importance to warrant the withholding of my approval. It should be remedied by the next Legislature.

ALONZO B. CORNELL.

MEMORANDUM WITH BILL AMENDING CHARTER OF THE
CITY OF BROOKLYN.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, June 4, 1880. }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 472, entitled "An act to amend chapter six hundred and sixty-three of the laws of 1875, entitled 'An act to amend the charter of the city of Brooklyn, being the act for that purpose passed June 28th, 1873, and the act for that purpose passed June 1st, 1874.'"

This bill is unfortunate in form, and has been approved with great reluctance for that reason. In its reference to

the act which it amends, the phrase "subdivision" is used in several places, when it is evident that the word "section" should have been used. Careful comparison with the act amended renders it clear, however, as to what was the intention of the Legislature. The object of the bill seems meritorious; and it is, therefore, approved in the belief that it will improve the administration of the health department of Brooklyn.

ALONZO B. CORNELL.

MEMORANDUM OF OBJECTIONS TO CERTAIN ITEMS IN THE
BILL MAKING APPROPRIATIONS FOR THE CANALS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, June 7, 1880. }

Statement of items of appropriation objected to and not approved, contained in Assembly bill No. 577, entitled "An act making an appropriation to pay the expenses of the collection of tolls, superintendence, ordinary repairs and maintenance of the canals for the fiscal year, commencing on the first day of October, eighteen hundred and eighty, and to provide for a contingent deficiency in the revenues of the canals for the calendar year eighteen hundred and eighty."

Each and every of the several items herein enumerated, contained in Assembly bill No. 577, entitled "An act making an appropriation to pay the expenses of the collection of tolls, superintendence, ordinary repairs and maintenance of the canals for the fiscal year, commencing on the first day of October, eighteen hundred and eighty," etc., are objected to, and not approved, for reasons stated below.

"Authority is hereby conferred upon the Superintendent of Public Works to expend out of the sum apportioned for the payment of the expenses of lock-tending and the ordinary repairs of the canals, the following sums for the purposes

herein designated, and all or any part thereof remaining unexpended, may be applied by him in his discretion to the ordinary repairs of the canals:

For dredging out the Ohio basin, in the city of Buffalo, the sum of nine thousand dollars, or so much thereof as may be necessary.

For dredging out the Erie basin, in the city of Buffalo, the sum of ten thousand dollars, or so much thereof as may be necessary.

For perfecting the culvert under the Erie canal, at Brockport, sufficient to carry off the surplus water in time of flood, one thousand dollars, or so much thereof as may be necessary.

For opening, straightening and cleaning out the channel of the Eighteen Mile creek, which carries off the surplus waters of the Erie canal by culvert and waste-weir, near Mabee's, in the town of Royalton, Niagara county, the sum of three thousand dollars, or so much thereof as may be necessary.

To pay an award by the Canal Appraisers on the nineteenth day of March, eighteen hundred and eighty, in favor of Harriet Jenkins, the sum of seven hundred and twenty-five dollars and fifty-five cents is hereby appropriated, payable on the warrant of the Auditor, out of any unexpended moneys in the treasury, belonging to the canal fund and applicable therefor.

For excavating a ditch on the berm side of the Erie canal, between the first culvert east of Jordan, and the culvert near the Shanty Point bridge, the sum of eight hundred dollars, or so much thereof as may be necessary.

For cleaning out the State ditches in the northern part of the town of Amherst, Erie county, between the Eighteen Mile creek and Tonawanda creek, the sum of five thousand dollars, or so much thereof as may be necessary.

For the construction of a swing, hoist, or turn-table bridge, over the Oswego canal, in the city of Syracuse, on Salina street, at its intersection with Bridge street, in place of the bridge now over said canal at that point, which was authorized by chapter three hundred and eighty-two of the laws of eighteen hundred and seventy-four, the sum of twelve thousand dollars, or so much thereof as may be necessary.

For extending sewer under the Erie canal and to Squaw island, at Black Rock, in the city of Buffalo, according to plans and specifications of the State Engineer and Surveyor, the sum of twenty thousand dollars, or so much thereof as may be necessary.

For cleaning out, excavating the bottom, repairing the banks and dam, and for deepening the channel at such points as may be deemed necessary by the Superintendent of Public Works, of the Tonawanda dam and feeder, to the Erie canal, in the county of Orleans, the sum of four thousand dollars, or so much thereof as may be necessary.

For raising and repairing road bed, in the town of Fort Ann, pursuant to chapter five hundred and forty-four of the laws of eighteen hundred and seventy, the sum of fifteen hundred dollars, or so much thereof as may be necessary.

For the drainage of lands belonging to Isaac U. Cole, situate in the town of Murray, Orleans county, near McGuire's bridge; the drainage of which is cut off by the Erie canal, by cleaning out and extending a ditch made by the State for such drainage or by such other method for drainage, the same as the Superin-

tendent of Public Works may deem best, the sum of one thousand dollars, or so much thereof as may be necessary.

The unexpended balance of the sum appropriated by chapter four hundred and thirty-six of the laws of eighteen hundred and seventy-nine, being the sum of seven thousand seven hundred and ten dollars and twenty-eight cents, to be applied as follows: For building a dam across Beaver river and across Independence river. The balance of said sum to be expended in the discretion of the Superintendent of Public Works, in restoring to the Black river its natural supply of water, and for the improvement of the navigation and for the benefit of the Black river canal.

All of the several items above enumerated are objected to, and not approved, for the reason that the Superintendent of Public Works already possesses abundant authority of law for all expenditures for the canals which can be made in conformity with the Constitution. If any of the objects named in these several items are legitimate charges against the canal funds, they can be provided for by the Superintendent without the enactment of the discretionary authority above given. If they do not come within this category, the items should not be incorporated in the law.

ALONZO B. CORNELL.

MEMORANDUM OF OBJECTIONS ACCOMPANYING THE SUPPLY BILL.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, June 7, 1880. }

Statement of items of appropriation, objected to and not approved, contained in Assembly bill No. 460, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations."

The several items herein enumerated, contained in Assembly bill No. 460, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in

former appropriations," are objected to, and not approved for reasons hereinafter stated :

For the commissioners of fisheries, to be expended as they may deem proper, upon vouchers to be approved by the Comptroller, for the purpose of replenishing the lakes and rivers of this State with fish, the sum of fifteen thousand dollars.

This item is objected to, and not approved, for the reason that in my opinion abundant provision has already been made for the purpose indicated. Appropriations for restocking the waters of the State with fish have been made heretofore, as follows :

1868	.....	\$1,000
1869	.....	10,250
1870	.....	15,000
1871	.....	15,000
1872	.....	15,000
1873	.....	15,000
1874	.....	10,000
1875	.....	15,000
1876	.....	15,000
1877	.....	15,000
1878	.....	15,000
1879	.....	15,000
Total		\$156,250

It will thus be seen that appropriations for this object, which were evidently intended in the beginning as temporary, have become chronic, and unless interrupted, are likely to become permanent by precedent. The present seems to be a good time to suspend this expense, at least until the necessity for its continuance shall become more apparent.

For George A. Martinus, for services as messenger to the Committees on Judiciary and Miscellaneous Corporations of the Senate, for the session of eighteen hundred and eighty, at four dollars per day, the sum of five hundred and fifty dollars, or so much thereof as may be necessary.

This item is objected to, and not approved, for the reason that the employes of the Legislature are regulated by chapter

379 of the laws of 1879, which provides that "No additional officers or employes shall be elected or appointed by the Senate or Assembly" beyond those named in the act. No "Messenger to the Committees on Judiciary and Miscellaneous Corporations of the Senate" is provided for, hence the appointment of such an employe could not have been legally made, and no appropriation should have been made for this purpose.

For Edward M. Johnson, for preparing the appendix to the Clerk's Manual, pursuant to resolution of the Assembly, adopted May twenty-fourth, eighteen hundred and seventy-seven, three hundred dollars.

This item is objected to, and not approved, for the reason that it is questionable in my mind, whether the Legislature is competent to provide for such a payment. The same item was stricken out of the Supply bill in 1878 by objection of the Governor, for reasons stated at length. If it is a valid claim against the State it should be passed upon by the Board of Audit.

For preparing and classifying under appropriate heads for the use of the Legislature, an index to papers on file in the Assembly from eighteen hundred and seventy-three to eighteen hundred and seventy-seven inclusive, pursuant to resolution of the Assembly adopted May twenty-fourth, eighteen hundred and seventy-seven, seven hundred and fifty dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the preceding item.

And for preparing under appropriate headings a complete index to the laws of the State from eighteen hundred and seventy-five to eighteen hundred and seventy-seven inclusive, pursuant to resolution of the Assembly adopted May twenty-fourth, eighteen hundred and seventy-seven, one thousand dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the preceding item.

For William H. Barker, for preparing and classifying under appropriate headings under the direction and supervision of the Clerk of the Assembly, an index to all bills presented to the Assembly and not acted on therein, from eighteen hundred and seventy-three to eighteen hundred and seventy-seven, both inclusive, pursuant to resolution of the Assembly adopted May twenty-fourth, eighteen hundred and seventy-seven, six hundred and seventy-five dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the last preceding item.

And for preparing and classifying under appropriate headings, under the direction and supervision of the Clerk of the Assembly, a complete index to all bills printed during the years eighteen hundred and seventy to eighteen hundred and seventy-seven, both inclusive, pursuant to resolution of the Assembly adopted May twenty-fourth, eighteen hundred and seventy-seven, one thousand dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the last preceding item.

For Henry A. Glidden, late Clerk of the Senate, for preparing a continuation of the general index of documents of the Senate and Assembly, from eighteen hundred and seventy to eighteen hundred and seventy-eight, and distributing the same pursuant to a resolution of the Senate adopted May twenty-fourth, eighteen hundred and seventy-seven, the sum of twelve hundred dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the preceding item.

And for preparing an index to the journal and testimony taken before the Senate on the trial of the charges against DeWitt C. Ellis, and distributing the same, pursuant to a resolution of the Senate adopted August seventeenth, eighteen hundred and seventy-seven, the sum of five hundred dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the last preceding item.

For John W. Vrooman, for arranging the testimony, proceedings and journal of the Senate, in the trial of the charges against John F. Smyth, late Superintendent of the Insurance Department, and for preparing an index to the same, and for distributing the same, pursuant to resolutions of the Senate adopted March twelfth, eighteen hundred and seventy-eight, the sum of five hundred dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the last preceding item.

For the Clerk of the Assembly, to pay for additional clerical services and for engrossing, eleven hundred and fifty dollars, to be paid on vouchers giving the items of expenditures and receipts of the parties to whom the same may be paid.

This item is objected to, and not approved, for the reason that chapter 379 of the laws of 1879 declares that "no additional officers or employes shall be elected or appointed by the Senate or Assembly," except those named in the act. No such "additional clerical services" as those mentioned in the item, could have been legally obtained, and hence the appropriation for compensation ought not to be made.

For the clerk of the senate, to pay for additional clerical services and for engrossing, five hundred dollars, to be paid on vouchers giving the items of expenditures and receipts of the parties to whom the same may be paid.

This item is objected to, and not approved, for the same

reason as that expressed in objection to the last preceding item.

For deficiency in appropriations for maintenance of convicts sentenced to penitentiaries, in pursuance of chapter one hundred and fifty-eight of the laws of 1856, chapter five hundred and eighty-five of the laws of 1865, chapter six hundred and sixty-seven of the laws of 1866, chapter five hundred and seventy-four of the laws of 1869, chapter two hundred and forty-seven of the laws of 1874, and chapter five hundred and seventy-one of the laws of 1875, sixteen thousand dollars, or so much thereof as may be necessary.

This item is objected to, and not approved, for the reason that it is deemed unwise to increase the provision already made for the purpose indicated. A large number of cells in the State prisons are now empty in consequence of an undue proportion of felons being confined in the penitentiaries.

And for payment of certain expenses for board and rooms of Senate committee appointed May twenty-second, eighteen hundred and seventy-five, to investigate the departments and offices of the government of the city of New York, seven hundred and sixty-nine dollars and fifty-eight cents.

This item is objected to, and not approved, for the reason that the Constitution declares that "the Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law." If this is a valid claim against the State it should be submitted to the Board of Audit for its action.

For the office of the Secretary of State, for carpets and other necessary office furniture, seven hundred dollars.

This item is objected to, and not approved, for the reason that in view of the approaching completion of the New Capitol it is deemed unwise to refurnish the apartments of the Secretary of State, until the question of future occupation is definitely settled.

For the office of the State Engineer and Surveyor for carpet, oil cloth and letter-head die, four hundred dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the item for the office of the Secretary of State.

For deficiency in appropriations for expenses of committees of investigation, to defray expenses for printing testimony and report of proceedings of the Special

Committee on Railroads, appointed under resolution of the Assembly of eighteen hundred and seventy-nine, fifteen thousand one hundred and eighteen dollars and eighty-five cents, on vouchers to be approved by the Comptroller.

This item is objected to, and not approved, for the reason that no authority was conferred upon the committee named to contract the liability which it is proposed to pay. It is believed to be a claim which the Legislature is by the Constitution prohibited from auditing, and it should be presented to the Board of Audit for its consideration.

For the traveling and incidental expenses of the committee appointed by resolution of the Assembly, passed April twenty-eighth, eighteen hundred and seventy-nine, to represent the State of New York at the National Camp of the Grand Army of the Republic, at Albany, eighteen hundred and seventy-nine, two hundred and nineteen dollars and fifteen cents.

This item is objected to, and not approved, for the reason that the resolution creating the committee did not authorize or contemplate such an expenditure.

For deficiency in appropriations for prosecuting the State survey, from January first to October first, eighteen hundred and seventy-nine, ten thousand dollars.

This item is objected to, and not approved, for the reason that appropriations for the State survey have been made in the years 1878, 1879 and 1880. The Commissioners had no authority to make expenditures or contract liabilities beyond the amount of the appropriations, and no good reason exists for providing for this deficiency. It seems to me desirable that public officers should be made to understand that they must confine their expenditures within authorized limits.

For Mrs. Catherine Hogan, widow of Patrick Hogan, as a gratuity, in full for all claims for damages for the loss by death of her said husband, who fell through an opening for the elevator, April twenty-fifth, 1879, while employed on the New Capitol, and was instantly killed, the sum of one thousand dollars.

This item is objected to, and not approved, for the reason that if any provision is to be made in this case, it should be for the benefit of the children of the deceased, instead of the widow, who is not the mother of the children.

For A. T. Brandow, as a gratuity, in full for all claims for damages for injuries received by him while in the discharge of his duty as a keeper in Sing Sing prison, November sixteenth, 1877, at the murderous assault of Henry Thomas, an insane convict in said prison, the sum of one thousand dollars.

This item is objected to, and not approved, for the reason

that the keeper has been continued in the employ of the State, and is not likely to be removed therefrom.

For Ann Higgins, mother of William Higgins, as a gratuity, in full for all claims for damages sustained by her in the loss by death of her said son, who was her sole support, and who died on the eighteenth day of July, 1879, from injuries received by him while employed on the New Capitol, one thousand dollars.

This item is objected to, and not approved, for the reason it is not deemed expedient to grant a gratuity in a case of this character.

For Thomas J. Lawrence, corporal, Company F, Twenty-second Regiment, National Guard, as a gratuity, who was permanently disabled for life while on duty as required by law, in rifle practice, one thousand dollars.

This item is objected to, and not approved, for the reason that the circumstances under which the injury occurred were not such as to justify the appropriation.

For James F. Johnson, as a gratuity, in full for all claims for damages for injuries received by him from the falling of a block of granite upon him while in the employ of the State, on the fourth day of September, 1875, and which necessitated the amputation of a leg, one thousand dollars.

This item is objected to, and not approved, for the reason that the person named has been continued in employment since the accident as gate keeper at the New Capitol. He has therefore enjoyed more constant employment and received more pay in a position far less laborious, than he would had he not been injured.

For Chapman S. Strong, as a gratuity, in full for all claims for damages for injuries received by him as a keeper in Auburn State prison, from the criminal assault of convicts, in November, 1873, and while engaged in the discharge of his duties as such keeper in quelling an outbreak in said prison, one thousand dollars.

This item is objected to, and not approved, for the reason that the lapse of seven years since the alleged injury, indicates doubt as to the propriety of the appropriation. It seems as though a meritorious case would have received earlier consideration.

For Lawrence Hagar, father of Charles Hagar, as a gratuity, in full for all claims for damages sustained by him in the loss by death of his said son, who was his sole support, and who was killed by falling from a scaffold in March, 1880, while at work on the New Capitol, five hundred dollars.

This item is objected to, and not approved, for the reason

that it is deemed unwise to establish a precedent of the character indicated therein.

For Mrs. Barbara Kennedy, widow of Captain John Kennedy, Junior, as a gratuity, in full for all claims for damages for the loss by death of her husband, resulting from sickness occasioned by exposure and hardship while in the discharge of his duties as Captain in the Eighth Regiment, National Guard, at Syracuse, under the orders of the Commander-in-Chief, during the riots of July, 1877, one thousand five hundred dollars.

This item is objected to, and not approved, for the reason that no claim exists of the character indicated. The policy of granting a gratuity of the kind named is believed to be unwise and unjust.

For Carl Meisner, of Battery G, Seventh Division, National Guard, State of New York, as a gratuity, who was permanently disabled for life by the premature discharge of a cannon while on duty with his battery, at Elmira, New York, on the thirtieth day of May, 1879, one thousand dollars.

This item is objected to, and not approved, for the reason that the accident occurred at a voluntary parade of the organization of which the unfortunate man was a member, and not while he was on duty under orders from the State authority.

For the payment of a canal certificate given by a late Canal Commissioner to Henry D. Dennison, December fourteenth, eighteen hundred and seventy-six, addressed to the Comptroller, for removing obstructions from the outlet of Cayuga lake and the channel of Seneca river, between Cross lake and Montezuma, five hundred and forty-two dollars and forty-eight cents, and for interest thereon the sum of one hundred and eight dollars and fifty cents.

This item is objected to, and not approved, for the reason that the liability which it is proposed to liquidate was not authorized by law. If it is a valid or equitable claim against the State, it should be presented to the Board of Audit.

For the Regents of the University, for the annual compensation of Samuel B. Woolworth, as Honorary Secretary of said board during his continuance in said office, the sum of two thousand dollars, payable in monthly installments, beginning from the tenth day of January, eighteen hundred and eighty.

This item is objected to, and not approved, for the reason that the position is honorary, and does not involve any real service for the State, hence it should not require compensation.

For the Regents of the University, for establishing and conducting examinations in accordance with chapter four hundred and twenty-five of the laws of 1877, five thousand dollars, to supply deficiency caused by want of appropriation, for such object, in eighteen hundred and seventy-nine.

This item is objected to, and not approved, for the reason that expenditures of this character should be confined to the appropriations actually made. To provide for such deficiencies as that described in this item, only makes future deficiencies inevitable.

For the State Cabinet of Natural History, for the purchase of the collection of objects of natural history owned by Charles D. Wolcott, comprising not less than twelve thousand specimens, four thousand dollars.

This item is objected to, and not approved, for the reason that the State has already expended vast sums for objects of like character for which it has received inadequate benefit. The only excuse offered for this appropriation is to provide a market for specimens which the collector desires to sell.

For the State Normal and Training school at Cortland, for completing the repairs of the building and for filling and grading the lot purchased, the sum of five thousand dollars, or so much thereof as may be necessary.

This item is objected to, and not approved, for the reason that the appropriation for the maintenance of the school is believed to be ample to provide for all necessary improvements.

For the State Normal and Training school at Fredonia, for repairs and improvement of buildings on plans subject to the approval of the Comptroller, seventeen thousand and thirty-two dollars, or so much thereof as may be necessary, and for apparatus five thousand dollars.

This item is objected to, and not approved, for the reason that it appears to be extravagant in amount. It would be sufficient to erect and equip a handsome building for the purpose, as an original question. When it is proposed to expend such a sum upon a building already in use, it seems quite unreasonable.

Of the appropriations for the State Normal and Training School at Brockport, the following items are disapproved:

For addition to buildings, twenty thousand dollars; for steam heating apparatus, twelve thousand one hundred and forty-eight dollars. * * * * *

These items are objected to, and not approved, for the reason that the State has already provided abundantly for Normal schools, and there is no necessity for erecting additional buildings. The sum for heating apparatus is deemed extravagant and unnecessary.

For the State Normal and Training School at Albany, for repairs to buildings, for additions to apparatus and for furniture and books, two thousand dollars.

This item is objected to, and not approved, for the reason that the sum appropriated for the school is quite adequate to its frugal maintenance, and to provide for the objects named in the item.

For the completion of the field work of the geological map of the Catskill mountain region and the southern counties of the State, twelve hundred dollars, to be paid on vouchers of the persons employed in the work, certified by the Secretary of the Board of Regents of the University.

This item is objected to, and not approved, for the reason that no authority of law has been found under which the work named was commenced.

For the Comptroller, for the purchase of the bronze statue of Robert R. Livingston, now in the Capitol, five thousand dollars.

This item is objected to, and not approved, for the reason that while the people of the State are so heavily taxed for the completion of the Capitol, it does not seem reasonable to burden them still more in providing works of art with which to adorn that edifice.

For printing and binding an amended edition of the New York Code of Public Instruction, to be prepared by the Superintendent of Public Instruction, and by him distributed one to each of the school districts of the State, the sum of twelve thousand dollars, or so much thereof as may be necessary.

This item is objected to, and not approved, for the reason that it is not deemed to be a necessary or desirable expenditure of public funds.

For the purchase of twelve hundred and fifty copies of volume one of Hough's Classified Abstract of the laws of New York, during the first century of the State government, at a rate not to exceed four dollars per volume, five thousand dollars, or so much thereof as may be necessary, to be paid on the certificate of the Secretary of State, and the work to be distributed by him to such offices of record,

public officers and libraries as are now entitled by law to receive the Session laws of this State.

This item is objected to, and not approved, for the reason that it is believed to be only the beginning of an expenditure which will require large appropriations hereafter to complete. The present is not a propitious time for inaugurating a new class of expenses to be borne by the State treasury.

For the Central New York Institution for deaf mutes, at Rome, for the support and instruction of nine deaf mutes for various periods of time, from the first of March to the first of October, 1879, in addition to those provided for by former appropriations, seven hundred and seventy-seven dollars and sixty-five cents, or so much thereof as may be necessary.

This item is objected to, and not approved, for the reason that provision was made in advance by appropriation for the support of the pupils, and the managers of the institution ought not to have received any larger number than was thus provided for.

For the Le Conteulx St. Mary's Institution for the improved instruction of deaf mutes, for the support and instruction of five deaf mutes for various periods of time, from the first day of January, 1879, to the first day of October, 1880, in addition to those provided for by former appropriations, the sum of nine hundred and fifty-two dollars and ninety-five cents, or so much thereof as may be necessary.

This item is objected to, and not approved, for the same reason as that stated in objection to the preceding item.

For the St. Joseph's Institution for the Improved Instruction of Deaf Mutes, at Fordham, for the support and instruction of deaf mutes for various periods of time in 1878 and 1879, in addition to those provided for by former appropriations, one thousand seven hundred and eighty-nine dollars and ten cents, or so much thereof as may be necessary.

This item is objected to, and not approved, for the same reason as that stated in objection to the preceding item.

For the State Board of Charities, for the support and care of State paupers, pursuant to chapter 661 of the laws of 1873, for deficiency in appropriations, fifteen thousand dollars.

This item is objected to, and not approved, for the reason that a liberal allowance was made in the appropriation bill of last year, and a frugal administration of the fund thus provided should render this appropriation unnecessary.

For the State Board of Charities, for deficiency in appropriations for current expenses, two thousand dollars.

This item is objected to, and not approved, for the reason that the Board should confine their expenses to the appropriations already made.

For the county of Cayuga, as an equitable reimbursement for certain expenses incurred and paid for the two trials in 1873 and 1874 and the appeals thereon, of Michael Donohoe, a convict, indicted for the murder of a convict in Auburn prison, including all disbursements made necessary during the incarceration of said Donohoe prior to, pending and subsequent to the trials; for like expenses incurred and paid for the trials in 1874 of John Coughlin, Patrick Eagan, Thomas E. Hardy, and Patrick Clifford, convicts, indicted for assaults with deadly weapons upon a keeper in said prison, including like disbursements; for like expenses incurred and paid for the trial, in 1875, of Edwin Thomas, a convict, indicted for the murder of a convict in said prison, including like disbursements; for like expenses incurred and paid for the trial, in 1877, of Harvey Thorpe, a convict, indicted for the murder of a convict in said prison, including like disbursements; for like expenses incurred and paid for the trial, in 1877, of William Barr, a convict, indicted for the murder of a keeper in said prison, including like disbursements, the sum of seven thousand and eleven dollars and forty-five cents.

This item is objected to, and not approved, for the reason that the county of Cayuga should bear the burden of criminal trials happening therein, as all other counties do. The fact that the offenders were State convicts does not furnish reason for an exception. The county receives great benefits from the location of the State prison, and it is no hardship for it to bear the incidental expenses of such trials.

For the city of Utica, for assessment for the construction in 1875, of the Third and Seventh ward sewer outlet in front of the State property in said city, four hundred and eighty-two dollars and twenty cents, and

For the Knox street sewer, fifty-two dollars and thirty-three cents.

These items are objected to, and not approved, for the reason that the city has no right to levy an assessment upon the State property for local improvements.

For the city of Syracuse, as an equitable payment of the local assessment and expenses for paving on Salina street, in said city, in front of Salt Springs office, in 1876, three hundred and eighty-two dollars and seventy-two cents,

And of the local assessment and expenses for constructing a sewer in Leavenworth avenue and Clark street in said city, in front of lands belonging to the State, in 1877, two thousand four hundred and seventy-eight dollars and seventy-six cents.

These items are objected to, and not approved, for the same

reasons as those stated in objection to the items in favor of the city of Utica.

Of the appropriation for the commissioners of quarantine :
For repairs of buildings, ten thousand dollars.

This item is objected to, and not approved, for the reason that the other appropriations for the support and repair of the quarantine establishment are believed to be ample for the purpose.

For the construction of a draw in the bridge over the navigable channel of the Oneida river at Brewerton, between the counties of Oswego and Onondaga, the sum of seven thousand five hundred dollars, payable out of any money in the Treasury applicable to the payment of expenses of canals.

This item is objected to, and not approved, for the reason that it is deemed to be an improper item to be inserted in this bill.

For removing obstructions and cleaning the bed of Bond's creek south of Dunham's basin waste weir to Fort Edward, Washington county, the sum of three thousand dollars, or so much thereof as may be necessary ; the work to be done under the supervision and direction of the Superintendent of Public Works. Said appropriation shall be payable on the warrant of the Auditor, out of any funds in the Treasury to the credit of the canal fund and applicable to the improvement of the Champlain canal.

This item is objected to, and not approved, for the same reason as that stated in objection to the preceding item.

For completing and finishing the removal of obstructions in Chautauqua lake and in the outlet thereof, the sum of four thousand dollars, the work to be done and money expended under the direction of the Commissioners of Navigation of said lake ; but no part of said money herein appropriated shall be paid to such Commissioners until they shall have executed a bond to the people of this State, to be approved by the Comptroller, conditioned that they will faithfully discharge their duties as such commissioners, and duly account, under oath, to the Comptroller, for all moneys received by them for the purpose aforesaid.

This item is objected to, and not approved, for the reason that the proposed expenditure is not deemed a proper one to be provided for out of the State Treasury.

For the construction of a bridge over the west branch of the Hudson river, known as the Sacandaga river, near the village of Northville, in the county of Fulton, five thousand dollars, to be expended under the direction of the Supervisor of the town of Northampton, upon vouchers to be approved by the Comptroller.

This item is objected to, and not approved, for the reason

that the object of the proposed expenditure is not considered to be a proper charge upon the State Treasury.

For the construction of a bridge over Grass river, in the town of Russell, county of St. Lawrence, on the road leading from Canton to Edwards, two thousand five hundred dollars, to be expended under the direction of the Supervisor of said town, upon vouchers to be approved by the Comptroller.

This item is objected to, and not approved, for the same reason as that expressed in objection to the preceding item.

For repairing and macadamizing the road across the Onondaga Indian reservation leading from what is known as the "Castle Hotel," in the town of Onondaga to a point intersecting the road leading by the house of Edwin Clark, the sum of one thousand dollars, to be expended under the supervision of Patrick King, of said town, who is hereby appointed a Commissioner for that purpose, who shall receive out of said sum three dollars per day for each full day occupied by him in the discharge of such duty, but for not exceeding fifteen days in the aggregate, and who shall execute to the people of this State a bond, to be approved by the Comptroller, for the faithful performance of his duties as such Commissioner.

This item is objected to, and not approved, for the reason that it is not a legitimate object for the expenditure of State funds.

For the construction of a wagon road on the reservation of the Saint Regis Indians, in the county of Franklin, starting from a short road now laid, which runs from the old State road to the reservation, and thence running nearly parallel with the Saint Regis river northerly to the Canada line, and a branch road, commencing at a point in such contemplated road about midway between its extremities and running thence easterly to Drum street in the town of Fort Covington, the sum of two thousand five hundred dollars, to be expended under the supervision of Alfred Fulton and Sidney G. Grow, of Hogansburg, who are hereby appointed Commissioners for that purpose, who shall each receive out of said sum three dollars per day for each full day occupied in and about such supervision; but the total compensation of such Commissioners shall not exceed the sum of two hundred and fifty dollars, and no part of the sum herein appropriated shall be paid over to said Commissioners until they shall have executed a bond to the people of this State, to be approved by the Comptroller, for the faithful performance of their duties as such Commissioners.

This item is objected to, and not approved, for the same reason as that expressed in objection to the last mentioned item.

For repairing the highway upon the Cattaraugus Indian reservation, running from Gowanda through the reservation into the town of Perrysburgh in the county of Cattaraugus, changing the line thereof, and for the erection and repair of bridges thereon, the sum of three thousand dollars, to be expended under the supervision of Millin T. Hill, James Welch and Henry Locke of Gowanda, who

are hereby appointed commissioners for that purpose; and for repairing the highway upon such reservation running from Versailles through the reservation into the town of Collins, in Erie county, to Lawton's Station, and for the erection and repair of bridges thereon, the sum of five hundred dollars, to be expended under the supervision of Elijah H. Lawton and Enos S. Hibbard, of Collins, who are hereby appointed commissioners for that purpose; each of said five commissioners shall receive out of said sums two dollars per day for each full day occupied by him in and about such service, but the total compensation of said first-named three commissioners shall not exceed the sum of two hundred dollars; and the total compensation of said last-named two commissioners shall not exceed the sum of seventy-five dollars; and no part of the sums hereby appropriated shall be paid over to the commissioners in each case until they shall have executed a bond to the people of this State, to be approved by the Comptroller, conditioned that they will faithfully discharge their duties as such commissioners and truly account under oath to the Comptroller for all moneys received by them for the purposes aforesaid, and no part of said sum shall be expended except upon a plan and estimate of said work which will complete it within the sums above appropriated.

These two items are objected to, and not approved, for the same reason as that expressed in objection to the two preceding items.

For building the necessary culverts and sluices, and for grading and graveling the approaches to the bridge over the Onondaga creek on the Onondaga Indian reservation, and for repairing the roadway to the same, on what is called the William Hill road, the sum of one thousand five hundred dollars, or so much thereof as may be necessary, to be expended under the supervision of Daniel Pinckney, of the town of Onondaga, who is hereby appointed a commissioner for that purpose, who shall receive out of the sum herein appropriated three dollars per day for each full day occupied by him in such service, but his total compensation shall not exceed the sum of one hundred and fifty dollars, and no part of the sum herein appropriated shall be paid over to said commissioner until he shall have executed a bond to the people of this State, to be approved by the Comptroller, for the faithful performance of his duties as such commissioner.

This item is objected to, and not approved, for the same reason as that expressed in objection to the several items of similar character preceding.

For building a bridge to be constructed of iron, stone and wood, across the Tonawanda creek, on the Tonawanda Indian reservation, where said creek is crossed by the Akron road, leading from the county of Erie into the county of Genesee, the sum of two thousand two hundred dollars, to be expended under the supervision of Joseph W. Holmes, Alpha E. Bennett and Daniel Norton, of Alabama, Genesee county, who are hereby appointed commissioners for that purpose, who shall receive out of the sum herein appropriated two dollars per day for each full day occupied by them in such service; but their total compensation shall not exceed the sum of one hundred and fifty dollars; and no part of the sum herein appropriated shall be paid over to said commissioners until the

like sum of twenty-two hundred dollars shall be paid to them for the same purpose by the Tonawanda band of Seneca Indians, from their annuities or trust fund interest, nor until such commissioners shall give a bond to the people of this State, conditioned for the faithful performance of their duties as such commissioners.

This item is objected to, and not approved, for the same reason as that expressed in the several preceding items of similar character.

For the services of the superintendent and teachers in the manual labor school for the Tonawanda Indians, one thousand dollars.

This item is objected to, and not approved, for the reason that the provision heretofore made for the school is deemed ample for all necessary purposes.

For the Soldiers and Sailors' Home, at Bath, for the erection of a hospital, ten thousand dollars;

For improvement of grounds, for fencing, and for conducting farm, five thousand dollars; and

For the erection of a chapel, five thousand dollars.

The three items for the Soldiers and Sailors' Home, at Bath, are objected to, and not approved, for the reason that the large appropriations heretofore made for that institution render a further expenditure of State funds inexpedient at the present time.

For the Paymaster-General, to defray expenditures authorized by chapter one hundred and eighty-four of the laws of eighteen hundred and sixty-three, one thousand dollars, or so much thereof as may be necessary.

This item is objected to, and not approved, for the reason that the expenditure is not deemed necessary.

For altering sights of Remington breech-loading rifles as recommended by the commission of officers appointed by the Commander-in-Chief, pursuant to general orders number twenty-six of eighteen hundred and seventy-nine, three thousand dollars, or so much thereof as may be necessary, to be paid on the audit of the Adjutant-General and the approval of the Commander-in-Chief.

This item is objected to, and not approved, for the reason that it is not deemed expedient to make the proposed expenditure during the present year.

For the Adjutant-General, to enable him to provide for increase of military fund of separate companies of infantry to equalize the same with funds of the other organizations of the National Guard, seven thousand four hundred dollars,

or so much as may be necessary, to be paid on the audit of the Adjutant-General and the approval of the Commander-in-Chief.

This item is objected to, and not approved, for the reason that the finances of the State are not now in condition to warrant an expenditure of this character.

For the erection of magazines at such State armories as may be designated therefor by the Adjutant-General, and for laying flagging at such armories, the sum of five thousand dollars, or so much as may be necessary, to be expended under the direction of the Chief of Ordnance, upon plans to be approved by the Adjutant-general, and paid upon the audit of the Adjutant-general and the approval of the Commander-in-Chief.

This item is objected to, and not approved, for the reason that it is deemed inexpedient to make further expenditures of this character until the armories already provided for shall have been completed.

For the Chief of Ordnance, to purchase the uniforms and equipments lately in the possession of the Twenty-seventh regiment, National Guard, which was disbanded by the Commander-in-Chief, three thousand nine hundred and fifty-three dollars and fifty cents, subject to the approval of the Adjutant-General.

This item is objected to, and not approved, for the reason that the property already belongs to the State.

For replacing the uniforms and equipments belonging to the Sixty-fifth Regiment of the National Guard, which were injured or destroyed while that Regiment was on duty at Buffalo, under orders of the Commander-in-Chief, during the riots of July, 1877, as have been or may be audited and allowed by the Adjutant-General, four thousand three hundred and seventy-five dollars, or so much thereof as may be necessary, to be paid to the credit of the uniform and equipment fund of said regiment, and to be disbursed upon the same audit and regulations as are required in case of payment of other sums from that fund.

This item is objected to, and not approved, for the reason that the State has heretofore made generous provision for the National Guard, and it is considered unwise to make special appropriations of this character.

For replacing the uniforms and equipments belonging to the Seventy-fourth Regiment of the National Guard, which were destroyed or injured while that Regiment was on duty at Buffalo and Hornellsville, under the orders of the Commander-in-Chief, during the riots of June and July, 1877, as have been or may be audited and allowed by the Adjutant-General, eight thousand dollars, or so much thereof as may be necessary, to be paid to the credit of the uniform and equipment fund of said regiment, and to be disbursed upon the same audit and regulations as are required in case of payment of other sums from that fund.

This item is objected to, and not approved, for the same

reason as that stated in objection to the item for the Sixty-fifth Regiment.

For replacing the uniforms and equipments belonging to the Ninth Regiment, National Guard, which were injured or destroyed while that Regiment was on duty at West Albany, under the orders of the Commander-in-Chief, during the riots of July 1877, as have been or may be audited and allowed by the Adjutant-General, seven thousand seven hundred and thirty-eight dollars and fifty cents, or so much as may be necessary, to be paid to the credit of the uniform and equipment fund of said regiment, and to be disbursed upon the same audit and regulations as are required in case of payment of other sums from that fund.

This item is objected to, and not approved, for the same reason as that stated in objection to the item for the Sixty-fifth Regiment.

For replacing the uniforms and equipments belonging to the Twelfth Separate Company, National Guard, which were injured or destroyed while that Company was on duty at West Albany, under the orders of the Commander-in-Chief, during the riots of July, 1877, as have been or may be audited and allowed by the Adjutant-General, sixteen hundred dollars, or so much thereof as may be necessary, to be paid to the credit of the uniform and equipment fund of said Company, and to be disbursed upon the same audit and regulations as are required in case of payment of other sums from that fund.

This item is objected to, and not approved for the same reason as that stated in objection to the item for the Sixty-fifth Regiment.

For replacing the uniforms and equipments belonging to the Fifty-fourth Regiment, National Guard, which were injured or destroyed while that Regiment was on duty at Hornellsville, under the orders of the Commander-in-Chief, during the riots of July, 1877, as have been or may be audited and allowed by the Adjutant-General, eight thousand four hundred and eighty dollars, or so much thereof as may be necessary, to be paid to the credit of the uniform and equipment fund of said Regiment, and to be disbursed upon the same audit and regulations as are required in case of payment of other sums from that fund.

This item is objected to, and not approved, for the same reason as that stated in objection to the item for the Sixty-fifth Regiment.

For the erection of an armory in the city of Poughkeepsie, Dutchess county, for the use of the National Guard, in said city and county, the sum of forty thousand dollars, to be expended under the direction of the Adjutant-General, the Inspector-General, the Chief of Ordnance of this State, and the Commandant of the Fifth Division; but no part of said sum shall be expended by them, except upon a contract for the completion of such armory within the limits of this appropriation, nor until an indefeasible title to a suitable site for such armory, free from all incumbrance, shall be vested in the people of this State, without cost to

the State, and to be approved by the above-named officials, or a majority of them.

This item is objected to, and not approved, for the reason that it is deemed unwise to commence the erection of additional public buildings until those already in course of construction shall have been completed, or at least so far advanced that the sum necessary to provide for their completion can be approximately estimated.

For building an addition to the State armory at Oswego, on lands recently purchased by the State for such purpose, for the use of a battery or troop of cavalry attached to the Sixth brigade, National Guard, the sum of fifteen thousand dollars, to be expended under the direction of the Adjutant-General, the Inspector-General, and the Chief of Ordnance of this State ; but no part of said sum shall be expended by them, except upon a contract for the completion of such addition within the limits of this appropriation.

This item is objected to, and not approved, for the same reason as that stated in objection to the item for the proposed armory at Poughkeepsie.

For the erection of an armory for the use of the Seventeenth Separate Company of Infantry at Flushing, Queens county, the sum of nine thousand dollars, to be expended under the direction of the Adjutant-General, the Inspector-General, and the Chief of Ordnance; but no part thereof shall be expended until the title to the land upon which such armory is to be constructed shall have been vested in the State free from all incumbrances.

This item is objected to, and not approved, for the same reason as that stated in objection to the item for the proposed armory at Poughkeepsie, and for the further reason that it is deemed inexpedient for the State to undertake the erection of armories for the accommodation of separate Companies of the National Guard.

For deficiency in appropriations for the erection of the State armory at Newburgh, the sum of five thousand dollars, to be paid on the audit of the Adjutant-General and the approval of the Commander-in-chief.

This item is objected to, and not approved, for the reason that the armory should have been erected within the amount appropriated for it.

For Sing Sing prison * * * *

For rebuilding guard house, three hundred dollars.

For building stone wall under iron fence, and repairs to outside wall and gates, seventeen hundred and fifty dollars.

For completing water works, five hundred dollars.

For building two guard houses on new dock, fifteen hundred dollars.

For iron fence, and gate at south wall entrance, twelve hundred and fifty dollars.

For iron gate under main building, four hundred and fifty-eight dollars.

For two gates in fence on river front, five hundred and sixty-three dollars.

For flagging and grading walks in yard, fifteen hundred dollars.

For general repairs, painting, relaying floors, purchase of tools, repairing fences, carts and wagons, one thousand dollars.

For completion of drains and sewers, two hundred dollars.

For repairing key room, putting up gun-rack, for locks, keys and repairs in prison hall, five hundred dollars.

For altering and repairing guard house, two hundred and fifty dollars.

For relaying floors and building stalls in stable, three hundred dollars.

For making survey and preparing plans and specification for iron fence, two hundred and sixty-seven dollars.

For preparing plans and specifications and superintending putting on of new roof to female prison, one hundred and twenty-three dollars and fifty cents.

For new ice house, five hundred dollars.

For repairing roofs, one thousand dollars ; and

For library, five hundred dollars.

The eighteen several items above enumerated for the Sing Sing prison, are objected to, and not approved, for the reason that the appropriations already made for the care and maintenance of the State prisons are believed to be adequate for all necessary purposes during the current year.

For Auburn prison, for repairing roofs, one thousand dollars.

For introduction of gas into cells, fifteen hundred dollars.

For apparatus and fixtures for heating the shops and extinguishing fires therein, two thousand dollars.

For ventilation of wings, five hundred dollars.

For rebuilding and enlarging shops, six thousand dollars.

For repairing and refurnishing chapel and officers' quarters, one thousand dollars, and

For library, five hundred dollars.

All of the items for the Auburn prison are objected to, and not approved, for the same reason as that stated in objection to the several items for the Sing Sing prison.

For Clinton prison, for new guard posts, two hundred dollars.

For new ovens, fifteen hundred dollars.

For repairing roofs, five hundred dollars.

For two extra guards, on account of enlargement, fifteen hundred dollars.

For repairing pickets, two hundred dollars.

For steam heating apparatus, labor and fixtures, twelve hundred and fifty dollars.

For repairing buildings, five hundred dollars.

For sewers, one thousand dollars.

For switch and track from railroad to prison yard, two hundred and fifty dollars.

For iron pipe to convey water into prison yard, two thousand five hundred dollars.

For six hundred feet of hose, six hundred and sixty dollars; and

For library, five hundred dollars.

All of the items for the Clinton prison are objected to, and not allowed, for the same reason as that stated in objection to the several items for the Sing Sing and Auburn prisons.

For the Superintendent of State Prisons, for rent of office for two years from June first, 1879, five hundred dollars.

For furniture, carpets and shelving, six hundred dollars.

For safe, two hundred dollars;

For the Superintendent of State Prisons, for counsel fees in the Senate investigation, in 1879, as to the removal of the agent and warden of Auburn prison, two hundred and fifty dollars; and

For counsel fees in the Assembly investigation, in 1880, into the circumstances attending the lease of the Dannemora railroad, two hundred and fifty dollars.

For the Superintendent of State Prisons, to pay Charles D. Bruyn, assignee of Thomas Hamilton, for balance due said Hamilton on account of materials furnished and delivered to the authorities of the State prison at Sing Sing, the sum of two thousand and thirty-eight dollars and ninety-three cents.

All of the several items above enumerated for the Superintendent of State Prisons are objected to, and not approved, for the reason that most if not all of them are of a character which require the action of the Board of Audit before they can be allowed constitutionally by the Legislature.

For the asylum for insane criminals, at Auburn, for new coal cellar, for sewer pipes, changing location of steam pipes, and purchase of regulation valve for steam distribution and pipe for the same; for pointing and repairing west wall; for fitting up carpenter shop; for purchase of engine and steam pump; for water pipe to connect with city water works; for ceiling and fitting up ten rooms in sixth and seventh wards as strong rooms; for shutters and iron screens for seven windows in fifth ward; for addition to green-house; for washing machine; for carpets curtains and table furniture for center building; and for library and surgical and other instruments, six thousand seven hundred and fifty dollars.

This item is objected to, and not approved, for the same reason as that stated in objection to the several items for the Sing Sing, Auburn and Clinton prisons.

Of the appropriation for the New York State Reformatory, at Elmira, the item which reads as follows :

“ And to provide a fund for carrying on its industries, to be used under the direction of the managers, fifty thousand dollars,”

is objected to, and not approved, for the reason that an

appropriation of this character should be more carefully guarded, so as to effectually provide for its proper application and preservation as a working capital for the institution:

For the Willard Asylum for the Insane, for furniture for the new group now in the course of erection, the sum of five thousand dollars; for a bridge or an earth embankment and extension of railroad across the ravine south of the main asylum building, to the two groups of buildings south of the ravine, ten thousand dollars; and for the completion of the laundry floor and enlargement of the steward's office, five thousand dollars.

All of the several items for the Willard Asylum for the Insane are objected to, and not approved, for the reason that liberal provision was made in the Supply bill of 1879, for the completion of the improvements authorized, and the managers cannot be justified in requiring further means for that purpose.

For the Buffalo Asylum for the Insane * * * for grading and sub-soiling garden; for fertilizer for grounds; for grass and garden seeds; and for fences, five thousand dollars.

This item is objected to, and not approved, for the reason that ample provision has heretofore been made for all necessary expense to put this institution in operation, and no further appropriations should be made for its completion or equipment.

For the Hudson River State Hospital for the insane, for deficiencies pertaining to the several contracts, and for extra work as directed by the Building Superintendent, twenty thousand six hundred and nineteen dollars and sixty-nine cents; * * * * *

And for steam boilers, setting the same, and connections; for renewals and repairs, including re-setting of boilers; for fixtures for laundry, drying room and ironing rooms and equipment of east and west section; for building drive-way under Hudson River Railroad bed; for ventilating pipes; for iron door and window guards; for extending water pipes in laundry; for coal sheds and tram-way; for yard walls and fences; for flooring umbras; for draining and paving around portions of the buildings; for plastering air ducts, and for salary of Building Superintendent, under whose direction the work is to be done, twenty-four thousand dollars.

The two several items above enumerated for the Hudson River State Hospital for the Insane, are objected to, and not approved, for the reason that ample and indeed extravagant provision has heretofore been made for this Institution. No

further allowance for its improvement should be made until there shall be a demonstration of its usefulness for some other purpose than the expenditure of State funds. Another reason for not approving these items, is the fact that the Trustees of the Hospital formally notified the Governor within a few weeks that no building was contemplated during the present year.

For the Binghamton Asylum for the Chronic Insane ; for window guards ; for repairing vestibules ; for painting interior wards, extensions and stairways ; for repairs to administration building ; for building kitchen and storeroom ; for drains and grading ; for excavating beneath floors of basement room ; for iron water tanks and connections ; for materials and labor for plumbing and gas fitting ; for furniture for wards, laundry, kitchen and administration building ; for fitting up dispensary ; for windows in towers ; for completing sewerage ; for telephonic communication with water-works and city of Binghamton ; for farming implements, stock, fertilizers and fencing ; for farm buildings ; for hay scales ; for gas works, laying mains and making connections ; for officers' salaries to close of current fiscal year ; for deficiency on account of maintenance ; for completing, heating and ventilation, including fan-house ; and for alterations and repairs of south wing, sixty-four thousand five hundred and ninety dollars ; to be expended, except as to existing indebtedness, on contracts approved by the Comptroller.

This item is objected to, and not approved, for the reason that a much larger sum has already been expended upon the Asylum than was contemplated or provided for in the law creating it. No further appropriation should be made for this Institution until some reasonable assurance can be secured that its affairs shall be conducted in accordance with the laws of the State relating to it.

For the New York State Asylum for the blind at Batavia, for the construction of boiler house and laundry and purchase of heating and other apparatus for the same, twenty-six thousand seven hundred and sixty-eight dollars, to be expended on contracts to be approved by the Comptroller.

This item is objected to, and not approved, for the reason that the expenditures already made upon this Institution have been beyond the amount contemplated when the work was commenced. Further appropriations should await a time when the resources of the State are less seriously burdened for the erection and improvement of public buildings.

For the Thomas Asylum for orphan and destitute Indian children ; for perfecting bathing arrangement ; for building cellar under laundry ; for repairs to exterior of buildings and for erecting building for nursery rooms and hospital, three thousand four hundred and fifty dollars.

This item is objected to, and not approved, for the reason that it is believed to be an unnecessary amount for the purposes indicated.

For the Western House of Refuge for Juvenile Delinquents, for deficiency in appropriations for erecting and furnishing an additional building for the female department and the erection of a kitchen and bakery ; for furnishing the work rooms, school rooms, dormitories and attendants' quarters of the new branch of such additional building ; for grading and improving the grounds ; and for conveying steam heat throughout the buildings, ten thousand dollars ; and

For the erection of a new barn, five thousand dollars ; and

For the erection of additional buildings for a primary and a graduating department for boys, sixty-five thousand dollars, but no part of this sum shall be expended except upon plans to be approved by the Comptroller.

The several items for the Western House of Refuge for Juvenile Delinquents are objected to, and not approved, for the reason that it is not deemed for the interest of the State that the proposed expenditures should be made at the present time.

For the Society for the Reformation of Juvenile Delinquents, on Randall's Island, for deficiency in appropriations for current expenses, thirty thousand dollars.

For alterations of and additions to dormitory for employees, and for remodeling dining room, three thousand dollars.

For the erection of a suitable building for storing coal, two thousand dollars ; and

For the erection of galleries in the chapel and for furnishing and painting the same, three thousand dollars.

The several items for the Society for the Reformation of Juvenile Delinquents, on Randall's Island, are objected to, and not approved, for the reason that they are deemed to be unnecessary, and, therefore, unwise appropriations of public money.

For the Seamen's Retreat Hospital on Staten Island, * * * and

For the erection of an iron fence around the hospital grounds and one around the cemetery and necessary repairs of cemetery ; for the introduction of steam and other heating apparatus in the hospital ; for insurance and for the completion of repairs, painting and erection of new buildings as provided in chapter 272 of the laws of 1879, the sum of twenty-three thousand nine hundred and fifty dollars.

This item is objected to, and not approved, for the reason that it is deemed unwise to make the proposed improvement at the present time.

For the Mariners' Family Asylum, on Staten Island, to reimburse it for moneys paid for insurance, repairs, drainage and other improvements on and around the buildings, the sum of seven thousand dollars; and

For painting and plumbing, for building a new roof to main building and erection of new barn, the sum of three thousand dollars.

The two items for the Mariners' Family Asylum, on Staten Island, are objected to, and not approved, for the reason that the proposed expenditures are not believed to be proper for the State to assume.

For Charles Van Benthuyzen and Sons, for printing, pursuant to concurrent resolution passed March 12th, 1880, two thousand copies of the annual report of the Superintendent of the Insurance Department, fire and life portion complete, two thousand copies fire and marine portion of said report, and fifteen hundred copies of the life and casualty portion of said report, and for binding the same in full cloth, gilt, to be paid upon the certificate of the Superintendent of the Insurance Department of the completion and delivery of the said work, five thousand four hundred and thirty-two dollars and nineteen cents; the said amount to be paid from the surplus fund in the treasury arising from the excess of moneys paid into the treasury by the Superintendent of the Insurance Department over and above the moneys disbursed on account of said department:

For printing and binding pursuant to the resolution of the Assembly adopted May 19th, 1879, twenty-six hundred and twenty-five sets, being seven thousand eight hundred and seventy-five volumes, of the annual report of the Adjutant-General for eighteen hundred and sixty-eight, being a complete roster of the officers of the volunteer forces of this State during the late war for the preservation of the Union, payable upon due certificate of the proper completion and delivery of the work, thirteen thousand one hundred and eighty-eight dollars and twenty-two cents, or so much thereof as may be necessary;

For printing and binding six thousand volumes of the natural history of the State; volume five, Paleontology, text and plates, the sum of thirteen thousand five hundred dollars, or so much thereof as may be required by the contracts for the publication of said work now in force;

For printing testimony taken in the contested election case of Trowbridge against Tighe, in 1879, forty-nine dollars and seventy-six cents;

For printing testimony taken in the investigation of the Brooklyn bridge, in 1879, two hundred and fifty-seven dollars and thirty seven cents; and

For printing testimony taken in the investigation of the Kingston election case, one hundred and sixty-three dollars and eighty cents.

All of the several items for Charles Van Benthuyzen & Sons, are objected to, and not approved, for the reason that several of them are believed to be covered by the contract for

Legislative printing recently executed by the firm named, and the rest are of such a character as to render them unsuited for legislative action without having been considered by the Board of Audit.

For Weed, Parsons and Company, for two copies of the Bankers' Code, two copies of the Insurance Laws of the State of New York, and one copy of Webster's Dictionary, furnished the Clerk of the Senate, pursuant to resolution of the Senate passed January 27, 1880, to be paid on the certificate of the Clerk of the Senate, twenty-five dollars.

For printing three hundred copies of testimony in the matter of the contested seat of George F. Carman against Charles T. Duryea, in 1879, to be paid on the certificate of the Chairman of the Committee on Privileges and Elections of the Assembly of 1879, sixty-six dollars and seventeen cents.

For printing and binding three thousand two hundred copies of the proceedings of the Legislature of the State of New York, in commemoration of its removal from the Old to the New Capitol, pursuant to resolution of the Assembly, passed April 29th, 1879, to be paid on the certificate of the Clerk of the Assembly, three hundred and seventy-two dollars and sixty-seven cents.

For printing seventeen thousand copies of the report of the Special Committee of the Assembly on the State Normal schools, furnished pursuant to resolution of the Assembly, passed May 19th, 1879, and for packing and shipping the same, to be paid on the certificate of the Clerk of the Assembly, eight hundred and thirty-five dollars.

For printing, binding and furnishing materials, for Committee on General Laws of the Assembly for 1879, to be paid on the certificate of the Chairman of the Committee, one hundred and twenty dollars and sixty-five cents.

For printing testimony in the matter of the contested seat of Liddle against Hynes, in the Assembly of 1880, to be paid on the certificate of the Chairman of the Committee, seven hundred dollars.

For balance of account for printing and furnishing materials for the select Committee of the Senate of 1878 and 1879, to revise the statutes, six hundred and sixty-five dollars and twenty-one cents ;

For printing for the special Committee of the Senate of 1879, to revise civil, penal and criminal codes, to be paid on the certificate of the Chairman of the Committee, two thousand nine hundred and fifty-two dollars and fifty-seven cents ;

For printing and lithographing reports of the State Cabinet of Natural History, in 1879 and 1880, to be paid on the certificate of the Secretary of the Board of Regents of the University, six hundred and twenty-three dollars ;

For furnishing eighteen hundred and sixty-six copies of the New York civil list, pursuant to concurrent resolution of the Legislature passed May eighth, 1879, to be paid on the certificate of the Secretary of State, three thousand seven hundred and thirty-two dollars ;

For seven thousand copies of the seventh annual report of the Adirondack survey, furnished pursuant to concurrent resolution of the Legislature passed April seventeenth, 1879, to be paid on the certificate of the Secretary of State, twenty-four thousand five hundred dollars ;

For printing fifty copies of the minority report of the Special Committee on Railroads, to be paid on the certificate of such minority, seventy-six dollars and eighty cents ;

For furnishing seventeen sets, full bound, of file boards for Senate and Assembly bills, journals and documents for the use of the State officers, one hundred and two dollars ;

For balance of account for printing and lithographing reports of State Cabinet of Natural History, as per bill on file in Comptroller's office, one hundred and twenty-eight dollars and ten cents ;

For furnishing one hundred and fifty-three sets of Senate and Assembly file boards for bills, for the Clerk of the Assembly, pursuant to resolution of the Assembly passed March fourth, 1880, two hundred and twenty-nine dollars and fifty cents ;

For balance of account for printing, as per bill on file in the Comptroller's office, Department of Public Instruction, ninety-five dollars and sixty-nine cents ; for Assembly Committee on Commerce and Navigation, six hundred and fifty-one dollars and nine cents ; for Clerk's manuals for Clerk of the Assembly, six dollars and five cents, and for Commissioners to revise the statutes, twenty dollars ;

For printing and binding twenty thousand copies of the report of the Special Committee on Railroads of 1879, furnished pursuant to resolution of the Assembly, passed February sixth, 1880, to be paid on the certificate of the Clerk of the Assembly, one thousand three hundred and forty-eight dollars ;

For printing and binding fifty copies of chapters fourteen to twenty-one, inclusive, of the revision of the statutes, for the use of the Judiciary Committee of the Senate of 1880, to be paid on the certificate of the chairman of the committee, fifty dollars ;

For printing and binding, in cloth, proceedings of the University Convocation of 1876, five hundred dollars, to be paid on the certificate of the Secretary of the Board of Regents ;

For printing and binding, in cloth, the Manual of the Regents of the University for 1880, seven hundred dollars, to be paid on the certificate of the Secretary of the Board of Regents ;

For printing, lithographing, binding and stationery furnished the State Museum of Natural History, five hundred dollars, to be paid on the certificate of the Director of the Museum ;

For printing twelve thousand copies of the report of the State Assessors, pursuant to concurrent resolution of the Legislature passed February twelfth, 1880, eight hundred dollars ;

For printing and lithographing one thousand copies of the Geological map of the Catskill mountain region and the Southern counties of the State, and printing the documents accompanying the same, two thousand dollars, or so much thereof as may be necessary, to be paid on the certificate of Secretary of the Board of Regents ; and

For six thousand copies of the seventh annual report of the Adirondack survey, furnished pursuant to concurrent resolution of the Legislature passed April thirteenth, 1880, to be paid on the certificate of the Secretary of State, the sum of fifteen thousand dollars.

All of the several items for Weed, Parsons & Co., are

objected to, and not approved, for the reason that several of them are believed to be covered by the contract for legislative printing, and the rest of them are of a character which brings them under the prohibition of section 19, article 3 of the Constitution, and necessitates their consideration by the Board of Audit.

FREE SCHOOL FUND.

The appropriation made in chapter two hundred and seventy-two of the laws of 1879 in the following words, namely :

“ For instruction in Academies and Union schools in the science and practice of common school teaching, for the year eighteen hundred and seventy-nine, pursuant to chapter four hundred and twenty-five of the laws of eighteen hundred and seventy-seven, the sum of thirty thousand dollars, or so much thereof as may be necessary, payable from the free school fund, to supply any deficiency therefor in the income of the United States Deposit Fund,” is hereby made applicable to any expenditures made in the fiscal year ending September thirtieth, eighteen hundred and eighty, for the purpose therein mentioned.

This item is objected to, and not approved, for the reason that the appropriations for the purpose indicated, for the current year, are believed to be quite adequate to the interests involved.

For removing obstructions from the outlet of Cayuga lake and the channel of Seneca river, to be expended under the direction of the Superintendent of Public Works, in so deepening and improving the channel of said outlet and river, and so increasing the water flow thereof, and completing and finishing the dredging out of the same both above and below the aqueduct crossing said outlet, as fully to compensate for the obstructions occasioned by the State works, and to restore the original capacity of said outlet, the sum of thirty thousand dollars; but no part of this appropriation shall be expended, unless in the judgment of the State Engineer and Surveyor, the State works cause or contribute to the damages complained of.

This item is objected to, and not approved, for the reason that the next item following it is for deepening the channel of the Cayuga Lake inlet. The latter item seems to have merit in the fact that the lack of water in the lake greatly impedes the navigation of the inlet. So long as this condition remains there is no necessity of increasing the capacity of the outlet.

For the Adjutant-General, for paying to the Seventh Separate Company of Infantry, Third Brigade National Guard (formerly the Third Separate Company

of Infantry, Tenth Brigade, Third Division, National Guard), as commutation for rations furnished said company from the twenty-third to the twenty-ninth day of July, 1877, both inclusive, while on duty, under orders from the Commander-in-Chief, three hundred dollars, or so much thereof as may be necessary, to be paid on the audit of Adjutant-General and the approval of the Commander-in-Chief.

This item is objected to, and not approved, for the reason that the claim has heretofore been considered and rejected by the military authorities of the State.

ALONZO B. CORNELL.

COMMENDING THE HONORABLE WILLIAM P. LETCHWORTH,
PRESIDENT OF THE STATE BOARD OF CHARITIES.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *June 9, 1880.* }

The Honorable William P. Letchworth, President of the State Board of Charities, of the State of New York, has been requested by that Board to visit and inspect in other States and countries the institutions for the care, training and reformation of the dependent and delinquent classes, and to report thereon to the Board.

Mr. Letchworth is a gentleman of worth, culture and distinction in this Commonwealth, and as such he is commended to the courtesy of those whom he may meet in his mission.

It is especially requested that the managers and officers of all institutions may afford him every reasonable facility to enable him to successfully accomplish his humane purpose.

ALONZO B. CORNELL,
Governor of the State of New York.

INSTRUCTIONS TO THE SHERIFF OF THE CITY AND COUNTY
OF NEW YORK WITH REFERENCE TO THE CATTLE
DISEASE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 15, 1880.* }

PETER BOWE, Esq., *Sheriff of the County of New York.*

SIR: Under Executive order, issued February 12, 1879, General Marsena R. Patrick is acting as assistant to the Governor for the suppression of pleuro-pneumonia among cattle in the county of New York, pursuant to the provisions of chapter 134 of the laws of 1878; and you and your deputies are hereby directed to assist him in executing the law relating to infectious and contagious diseases of animals, as requested by him.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

IDEM, TO SHERIFF OF ROCKLAND COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 15, 1880.* }

HENRY CHRISTIE, Esq., *Sheriff of the County of Rockland.*

SIR: Under Executive order issued February 12, 1879, General Marsena R. Patrick is acting as assistant to the Governor for the suppression of pleuro-pneumonia among cattle in the county of Rockland, pursuant to the provisions of chapter 134 of the laws of 1878; and you and your deputies are hereby directed to assist him in executing the law relating

to infectious and contagious diseases of animals, as requested by him.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

IDEM, TO SHERIFF OF RICHMOND COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 15, 1880.* }

ABRAM V. CONNOR, Esq , *Sheriff of the County of Richmond.*

SIR: Under Executive order issued February 12, 1879, General Marsena R. Patrick is acting as assistant to the Governor for the suppression of pleuro-pneumonia among cattle in the county of Richmond, pursuant to the provisions of chapter 134, of the laws of 1878 ; and you and your deputies are hereby directed to assist him in executing the law relating to infectious and contagious diseases of animals, as requested by him.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

IDEM, TO SHERIFF OF QUEENS COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 15, 1880.* }ALONZO B. WRIGHT, Esq., *Sheriff of the County of Queens.*

SIR: Under Executive order, issued February 12, 1879, General Marsena R. Patrick is acting as assistant to the Governor for the suppression of pleuro-pneumonia among cattle in the county of Queens, pursuant to the provisions of chapter 134 of the laws of 1878 ; and you and your deputies are hereby directed to assist him in executing the law relating to infectious and contagious diseases of animals, as requested by him.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

IDEM, TO SHERIFF OF PUTNAM COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 15, 1880.* }JAMES O. COLE, Esq., *Sheriff of the County of Putnam.*

SIR: Under Executive order issued February 12, 1879, General Marsena R. Patrick is acting as assistant to the Governor for the suppression of pleuro-pneumonia among cattle in the county of Putnam, pursuant to the provisions of chapter 134 of the laws of 1878 ; and you and your deputies are hereby directed to assist him in executing the law relating to infectious and contagious diseases of animals, as requested by him.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

IDEM, TO SHERIFF OF WESTCHESTER COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 15, 1880.* }JAMES C. COURTER, ESQ., *Sheriff of the County of Westchester.*

SIR: Under Executive order issued February 12, 1879, General Marsena R. Patrick is acting as assistant to the Governor for the suppression of pleuro-pneumonia among cattle in the county of Westchester, pursuant to the provisions of chapter 134, of the laws of 1878; and you and your deputies are hereby directed to assist him in executing the law relating to infectious and contagious diseases of animals, as requested by him.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

OBJECTIONS FILED WITH ASSEMBLY BILL No. 662, CONFERRING ADDITIONAL AUTHORITY UPON THE CLERK OF RICHMOND COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 17, 1880.* }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 662, not approved, entitled "An act to authorize and direct the County Clerk of Richmond county, to record certain papers now on file in the Richmond County Clerk's office."

This bill authorizes the recording of certain papers in the Clerk's office of Richmond county, which, it is alleged,

former clerks have neglected to record, and provides that the Clerk shall receive as compensation the same fees as are now allowed by law for like services, to be paid by the County Treasurer. This is clearly in violation of section 18 of article 3 of the Constitution, in creating, by a local bill, new fees for a public officer during his term of service.

If the proposed work is necessary and desirable, an act should be passed enabling the Board of Supervisors to exercise proper discretion and authority in the matter.

ALONZO B. CORNELL.

OBJECTIONS FILED WITH SENATE BILL NO. 391, RELATING TO
A SEPARATE ROAD DISTRICT IN MIDDLETOWN, RICHMOND
COUNTY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
: ALBANY, June 17, 1880. }

[Filed with the Secretary of State.]

Memorandum filed with Senate bill No. 391, not approved, entitled "An act to amend chapter eight hundred and eighteen of the laws of eighteen hundred and sixty-six, entitled 'An act to create a separate road district in the town of Middletown, Richmond County.'"

This bill amends the act creating a separate road district in the town of Middletown, Richmond county, by providing that the Commissioner of highways "shall have power and he is hereby authorized to widen, alter, enlarge and lay out any and all roads now in use in said road district, to the width of three rods, and to macadamize the same."

This involves a disregard of the rights of the people to regulate their local affairs, which seems to me to be unjustifiable. If the people desire to have "any and all roads" macadamized they are quite competent to make the necessary

provision therefor, and it is unjust for the Legislature to force them to make such improvements against their will.

ALONZO B. CORNELL.

OBJECTIONS FILED WITH ASSEMBLY BILL NO. 697, MAKING
APPROPRIATIONS ON AWARDS BY THE STATE BOARD OF
AUDIT.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, ;
ALBANY, June 18, 1880. \

[Filed with the Secretary of State.]

Statement of items of appropriation objected to, and not approved, in Assembly bill No. 697, entitled "An act making appropriations for the payment of certain awards by the State Board of Audit."

The following items herein enumerated, contained in Assembly bill No. 697, entitled "An act making appropriations for the payment of certain awards made by the State Board of Audit," are objected to, and not approved, for reasons hereinafter stated.

"For Timothy J. Sullivan, eight thousand three hundred and forty-six dollars and eighteen cents."

This item is objected to, and not approved, for the reason that it is believed the claim should not have been allowed by the Board of Audit.

Mr. Sullivan contracted with James W. Eaton, Superintendent of the New Capitol, August 8, 1874, to furnish rolled iron beams, riveted plate and box girders, &c., for the New Capitol, under certain specifications. It appears that in executing the contract Sullivan was unable to furnish the material of the exact dimensions specified, and could only procure material slightly under or in excess of the specifications. The architect refused to receive material below the standard; hence it became necessary for Sullivan to furnish

the heavier material.

After the execution of the contract on the eighth of November, 1875, his account was audited by Superintendent Eaton for \$59,961.82, from which were deducted former payments of \$53,000, leaving a balance of \$6,961.82, for which amount a certificate was given by the New Capitol Commissioners, which was liquidated by the Comptroller by warrant dated November 23, 1875, to which is attached the following affidavit :

“STATE OF NEW YORK, {
ALBANY CITY AND COUNTY, { ss.:

T. J. Sullivan, of Albany, New York, being duly sworn, deposes and says, that the account rendered and the articles specified in the annexed bill, iron beams and girders furnished in accordance with contract, \$59,961.82, were actually furnished as charged to the ‘New Capitol Commission,’ for the use of the State; that the amounts stated therein are the true and correct amounts due for the said articles, and that the prices charged for the said articles as stated in said account are the fair cash market prices for the same, as this deponent believes, and that the quantities and amounts are correctly stated in said account.

(Signed)

T. J. SULLIVAN.

Subscribed and sworn to this 23d day {
of November, 1875, before me. {

(Signed) HENRY GALLIEN,

Notary Public, Albany, New York.”

The following receipt is also attached to the warrant :

“TREASURER’S OFFICE, {
STATE OF NEW YORK. {

Received from Thomas Raines, Treasurer of this State, sixty-nine hundred and sixty-one dollars and eighty-two cents in full of the above warrant.

ALBANY, *November 23, 1875.*

(Signed)

T. J. SULLIVAN.”

It thus appears that Mr. Sullivan's claim under his contract was duly audited and paid.

One of the conditions incorporated in the contract aforesaid, is as follows :

“ It is further agreed between the said parties that this contract is entered into upon the condition that the said party of the second part shall not apply to the Legislature for any compensation over and above the prices named in this contract for any beams, girders or other material delivered.”

Article 3, section 4 of the Constitution says :

“ The Legislature shall not * * * * * grant any extra compensation to any public officer, servant, agent or contractor.”

It seems, therefore, that there are three several reasons why this claim should not be allowed :

1st. Because the account was audited and settled by the New Capitol authorities, and liquidated by the financial officer of the State upon an unqualified receipt from Sullivan.

2d. That Sullivan stipulated in his contract, not to apply to the Legislature for any compensation over and above the prices named in the contract.

3d. Because of the constitutional prohibition against allowing extra compensation to any contractor.

“ For Allen Rutherford, two thousand six hundred and three dollars and ten cents.”

This item is objected to, and not approved, for the reason that the 9th Militia Regiment was assisted by the Union Defense Committee of the city of New York for clothing, equipment, outfit and rations to the amount of \$33,791.49, being at the rate of \$40 per capita for 850 men.

The following statement of amounts expended by the Union Defense Committee in aid of the several New York City Militia Regiments, shows that the 9th Regiment, to which Captain Rutherford's Company belonged, received

a much larger sum than any of the other Regiments, viz.:

NEW YORK STATE MILITIA.

2d Regiment, Colonel Tompkins, clothing, equipment, outfit and rations.....	\$25,246 96
5th Regiment, Colonel Schwarzwaelder, clothing, equipment, outfit and rations	9,575 19
6th Regiment, Colonel Pinckney, clothing, equipment, outfit and rations	2,950 00
8th Regiment, Colonel Lyons, clothing, equipment, outfit and rations	14,200 63
9th Regiment, Colonel Stiles, clothing, equipment, outfit and rations	33,791 49
12th Regiment, Colonel Butterfield, clothing, equipment, outfit and rations	14,383 83
55th Regiment, Colonel Le Gal, clothing, equipment, outfit and rations	4,341 44
69th Regiment, Colonel Corcoran, clothing, equipment, outfit and rations	25,518 83
71st Regiment, Colonel Martin (late Vosburgh), clothing, equipment, outfit and rations.....	10,417 00
79th Regiment, Colonel Cameron, clothing, equipment, outfit and rations	16,911 60
Total.....	<u>\$157,336 97</u>

It therefore appears that liberal, and, indeed, generous assistance was provided for the regiment, which ought to have been abundant for the purpose indicated.

In his testimony before the Board of Audit, Captain Ruth-
erford says: "In 1872 or 1873 General Stonehouse and
General Franklin Townsend were settling the claims of the
State of New York then coming before my office (Ruth-
erford at the time being third Auditor of the United States
Treasury Department), "and I mentioned the fact of my

having disbursed these moneys ; they suggested that I get up a bill and present to the Legislature. In accordance with that suggestion I handed all the bills to General Townsend, who presented the matter to the Legislature.”

Thus it appears that Rutherford had allowed the matter to remain 11 or 12 years before it ever occurred to him to make any claim.

In view of all these circumstances, it appears to me that the claim is of very doubtful validity, and should be subjected to more careful consideration than it has yet received.

ALONZO B. CORNELL.

OBJECTIONS FILED WITH ASSEMBLY BILL NO. 458, AMENDING THE REVISED STATUTES RELATING TO TAXATION.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *June 19, 1880.* (

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 458, not approved, entitled “An act to amend section two of title one of chapter thirteen of part one of the Revised Statutes.”

This bill was intended to provide a broader basis of assessments for taxation. Unfortunately, however, by an error in construction, it is made to specially exempt several classes of property which are proper subjects of taxation, and which it was doubtless the intention of the Legislature to make liable to assessment.

In attempting to amend the bill so as to “except street surface railroads.” the exception is made to apply also to “all gas, oil, steam heat, and water pipes owned by any incorporated company, including such pipes laid in any public street or place, and telegraph poles and wire, wires

and other fixtures used for electrical light or for telegraph companies," and evidently defeats, to a considerable extent, the object of the bill.

As the subject treated is the very basis of a large proportion of the public revenue, it is deemed imprudent to incorporate into the statute a provision of doubtful interpretation and thus invite and promote litigation in regard to the validity of assessments. It seems wiser to allow the matter to go over to the next Legislature, when the amendment can be carefully perfected and made to accomplish the desired purpose.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH BILL IN RELATION TO UNPAID
TAXES IN THE CITY OF BROOKLYN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 21*, 1880. }

[Filed with the Secretary of State.]

Memorandum filed with Senate bill No. 406, entitled "An act in relation to unpaid taxes and assessments in the city of Brooklyn." Duly approved.

This bill has been the subject of especially careful consideration, from the fact that while its approval has been earnestly advocated by many citizens of Brooklyn, it has been strongly opposed by others. The weight of evidence, however, appears to be decidedly in favor of its passage, although certain of its provisions seem susceptible, perhaps, of conflicting interpretation. The most serious fault rests with that portion of the second section which reads as follows: "Or the person liable, having paid one or more installments, as provided in this section, may pay the balance remaining unpaid at any time, with interest at the rate of

six per centum per annum from the said first day of October, 1880, and whenever full payment shall be made, the liens as aforesaid on such lands shall be discharged, as in this section provided.”

It was probably the intent of the Legislature to permit the payment at any time within five years, and it is presumed the courts would so interpret the meaning of this provision. It ought not to be necessary, however, to allow the question to become a matter of litigation. No issue can arise under this clause before October, 1881, and an amendment by the next Legislature, making it more definite, will be quite as effective as though incorporated in the present bill.

The final clause of the second section is also somewhat obscure in its language; but careful reading seems to render its meaning quite evident, and it does not appear liable to misconstruction.

The main argument advanced by the opponents of the bill is, that it will largely increase the permanent debt of the city, by converting temporary certificates of indebtedness into long bonds. The argument would be valid if the city enjoyed a revenue adequate to the liquidation of the certificates. This, however, is not likely to be realized without a considerable increase in the rate of taxation. A very large amount of property is now hopelessly in default, and unless some remedy is adopted by which its taxpaying power can be restored, it will remain a dead weight upon the city. In the earnest hope that the desired result can be accomplished by this bill, and relying upon the Legislature next year for such amendments as will remove any doubtful questions which may arise as to its meaning, it has been approved.

ALONZO B. CORNELL.

OBJECTIONS FILED WITH THE CODE OF CRIMINAL PROCEDURE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, *June 26, 1880.* }

[Filed with the Secretary of State.]

Memorandum Filed with Assembly bill No. 184, not approved, entitled "An act to establish a Code of Criminal Procedure."

The Code of Criminal Procedure is regarded in its general features as a meritorious measure, and it has been my earnest desire to approve it. Careful examination, however, convinces me that certain of its provisions should receive further and more deliberate consideration by the Legislature before they are incorporated into the Statutes. This is especially the case in several particulars involving personal and individual rights.

While it is desirable to promote efficiency in the administration of the laws against evil-doers, it is equally important to avoid unnecessary hardships where innocent and law-abiding citizens are concerned. The increase of authority for summary arrest on suspicion both by officers and citizens, which is provided for in the Code, is a marked encroachment upon the rights of individuals, and is liable to great abuse. Furthermore, the limitation of opportunity to furnish bail in cases of arrest, is an abridgment of personal rights calculated to work great injustice, even if it does not impair the constitutional protection guaranteed to every citizen in the privilege of the writ of *habeas corpus*.

Authority is also conferred upon an officer, who, suspecting that a person charged with felony may be in a dwelling house or other building, to enter without warrant, and "break open an outer or inner door or window." If the officer has reason-

able cause for believing that the suspected person has committed a felony, he "is justified in making the arrest, though it afterward appear that a felony had not been committed." In many cases such authority might produce good results, but it also affords unreasonable license for the invasion of a private domicile, and, in my opinion, cannot be justified as a matter of public policy.

In narrowing the privilege of sanctity in cases of confession of crime, which now exists, the opportunity of securing State's evidence from participants in criminal acts is reduced in a large degree. Disclosures of this character are frequently the only resources of evidence in crimes of the most flagrant type, and should remain available to secure the ends of justice.

Other provisions of the bill are open to serious objection, but those cited are sufficient to indicate the importance of closer scrutiny into the details of the measure, and induce me to withhold my approval. The date fixed for the Code to take effect is September first, 1881, and is sufficiently remote to enable the Legislature to again pass upon the subject, and still leave several months of time for the Courts, the legal profession and the people to familiarize themselves with the new law, before the time designated.

ALONZO B. CORNELL.

TO THE SECRETARY OF STATE RELATIVE TO THE BOUNDARY
LINE BETWEEN NEW YORK AND CONNECTICUT.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *July* 3, 1880. }

SIR: Having received from the Governor of the State of Connecticut, a certified copy of the joint resolution of the

General Assembly of that State, ratifying the agreement had between the commissioners appointed by the State of Connecticut on the one part, and the commissioners appointed by the State of New York on the other part, in the matter of the Boundary Line between the States of Connecticut and New York ; therefore, pursuant to chapter 213 of the laws of 1880, section 2, it is hereby requested that the enclosed certified copy of said agreement, ratified by the General Assembly of Connecticut, and received by me from the Governor of that State, be placed on file as due notice of the confirmation of said agreement as in the act referred to provided.

Very respectfully,

ALONZO B. CORNELL.

To the Hon. J. B. CARR, *Secretary of State.*

ANNULLING REQUISITION FOR THE SURRENDER OF ONE
THOMAS MATHEWS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July 21, 1880.* }

To His Excellency, HENRY M. HOYT, *Governor of the State of Pennsylvania :*

Whereas, On the twentieth day of March, 1880, a requisition was issued by me upon the Governor of the State of Pennsylvania, for the surrender of one Thomas Mathews, charged with the crime of larceny and with being a fugitive from justice, from the State of New York, and

Whereas, It appearing to my satisfaction that the process was sought for the accomplishment of private ends, and not in the interest of public justice ;

Now, therefore, the said requisition is hereby revoked,

and the demand thereunder made for the surrender of the said Thomas Mathews is hereby annulled.

Given under my hand and the privy seal of the State,
[L. s.] this twenty-first day of July, in the year of our
Lord one thousand eight hundred and eighty.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

TO THE STATE BOARD OF HEALTH, TRANSMITTING COM-
PLAINT OF THE BOARD OF HEALTH OF HART'S FALLS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, August 3, 1880. }

To the State Board of Health :

The Board of Health of the village of Hart's Falls, Rensselaer county, have made formal complaint to me of an obstruction in the channel of the Hoosick river adjacent to that village, which, by diverting the water of the river from its natural channel, has rendered the locality extremely unhealthy ; and submitting therewith, statements by several physicians as to the present sanitary condition of the village. These papers are herewith transmitted with the request that the State Board of Health promptly examine the alleged nuisance and make early report thereof for my information and guidance.

Yours very respectfully,

ALONZO B. CORNELL.

TO THE MAYOR OF NEW YORK RELATING TO LOTTERIES.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *August 5, 1880.* }

Hon. EDWARD COOPER, *Mayor of the City of New York.*

SIR: The Constitution declares that the sale of lottery tickets shall not be allowed in this State, and laws designed to enforce this wise provision have been duly enacted. That these laws are openly and flagrantly violated in the city of New York, the advertising columns of several of the daily newspapers of that city testify.

As the chief executive officer of the city of New York, you are therefore requested to see that the proper local officials take the necessary steps faithfully and efficiently to execute these laws, and prohibit this unconstitutional and unlawful traffic. The District Attorney of your county has been directed to co-operate with you in the matter.

Yours respectfully,

[L. S.]

ALONZO B. CORNELL.

the Governor :

HENRY E. ABELL,

Private Secretary.

TO THE DISTRICT ATTORNEY OF NEW YORK RELATING TO LOTTERIES.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *August 5, 1880.* }

Hon. B. K. PHELPS, *District Attorney of New York County.*

SIR: The attention of the Mayor of New York city has been this day directed to the flagrant violation of the Constitution and laws of this State, with reference to the sale of

lottery tickets, and you are hereby directed to co-operate with that officer in suppressing the illegal traffic.

Yours respectfully,

[L. S.]

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

TO THE GOVERNOR OF CONNECTICUT IN THE MATTER OF
THE BOUNDARY LINE BETWEEN THAT STATE AND NEW
YORK.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, *August 5, 1880.*

SIR : Your letter of the 4th of June last, enclosing a certified copy of the resolution of the General Assembly of the State of Connecticut, ratifying the agreement of the joint commission establishing the boundary lines between the States of New York and Connecticut, was duly received. The congratulation expressed in view of the settlement of a question so long unadjusted, is especially fitting, and most cordially reciprocated.

By direction of the Legislature of this State, a certified copy of chapter 213, of the laws of New York, passed May 8, 1880, entitled "An act to ratify and confirm the agreement in relation to the boundary lines between the State of New York and the State of Connecticut, entered into by commissioners on the part of said States," is herewith transmitted. Pursuant to section 3 of said act, a memorial to Congress, in quadruplicate, is respectfully submitted for your concurrence, touching the joint action of the two States on the subject contained, and requesting the approval of the same by Congress.

While making this communication to Congress, it is suggested that in order to preserve a complete record of every proceeding relative to this matter it would not be inappropriate to deposit a copy of the memorial, duly authenticated, in the office of the Secretary of State, in each State. Accordingly, therefore, a suitable number of copies have been prepared and attested by me; and if commended to your judgment, be pleased to return two of them to me with your signature affixed, together with copies of the joint resolution of your General Assembly, for the purpose and uses mentioned.

Yours very truly,

ALONZO B. CORNELL.

His Excellency, CHARLES B. ANDREWS, *Governor of the State of Connecticut.*

TRANSMITTING TO THE STATE BOARD OF HEALTH COMPLAINT OF THE AUTHORITIES OF THE CITY OF BUFFALO.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *August 16, 1880.*)

To the State Board of Health :

Inclosed is a communication from the Mayor of the city of Buffalo, transmitting a resolution of the Common Council of that city, making complaint of the condition of the Main and Hamburg canal as affecting the health of the city; and also a communication from the Superintendent of Public Works, on the same subject.

You are requested to give attention to this subject, and make such recommendation as shall seem proper.

Yours very respectfully,

ALONZO B. CORNELL.

ORDER FOR THE INSPECTION OF CATTLE ON THE FARM OF
WILLIAM CLARK, OSWEGO COUNTY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *September, 4, 1880.* }Professor JAMES LAW, *Cornell University, Ithaca, N. Y.*

Complaint reaches me that pleuro-pneumonia has appeared on the farm of William Clark, three miles west of Oswego city. Several cattle have died and others now sick. Will you please visit the herd immediately and report to me what the disease is, and what steps are necessary to protect public interests. Answer by telegraph when you can go.

[By telegraph]

ALONZO B. CORNELL.

REPORT OF PROFESSOR LAW ON THE SAME SUBJECT.

To His Excellency, ALONZO B. CORNELL, *Governor of the State of New York.*

SIR: In accordance with your telegram I visited the farm of William Clark, near Oswego, and found on investigation that his cattle were dying of Texas fever, in place of contagious pleuro-pneumonia, as reported. I made post-mortem examinations of two cows that had died just before, and found all the lesions of the Texas disease in a most pronounced and unequivocal form; upon five sick but still surviving cows, I found the same decided symptoms, and among the remaining eighteen head that were still supposed to be well, one showed a rise of temperature and other initial symptoms of the disease.

The record of Mr. Clark's business transactions fully bore

out this conclusion. On July 1, he bought twenty-four Cherokee steers in Buffalo, and on the arrival of these at Oswego, he drove them to his farm and kept them from Wednesday to Monday in an orchard adjoining his barns and communicating with them. For three or four weeks after this his dairy cows had no access to this inclosure, but since that time they have been occasionally in the orchard. On the 27th of August, the first of these cows died. This left about a month (the usual incubation of Texas fever) between the first exposure of the cows in the orchard and the occurrence of disease. Splenic apoplexy, which strongly resembles Texas fever in its symptoms and lesions, was excluded by the fact that pigs had eaten the offal with impunity. Pigs are very susceptible to the first of these diseases, and not at all to the second. The idea of splenic apoplexy was further excluded by the absence from the blood, etc., of microscopic organisms that characterize that disease, while those betraying the presence of Texas fever were abundant.

Texas fever being conveyed only by the droppings of cattle from near the gulf coast, it became needful to guard against the introduction of fresh animals into the orchard in question, and the barns; and as the owner has already received a severe lesson, and as my instructions were given in the presence of a large company of farmers and others, there is little fear of any further exposure during the present season, and the frosts of winter will thoroughly destroy the contagion.

I further furnished advice for the cleansing and disinfection of the buildings, and for the treatment of the healthy (?) and sick.

Other alleged outbreaks in the same district turned out to be mere accidental ailments, as from an overfeed of apples, etc.

So far, then, as regards the cattle disease at Oswego, there need be no further apprehension. The worst that can happen will be the death of one or two more of Mr. Clark's herd. His neighbors have nothing to fear, unless they allow their cattle to enter his proscribed orchard.

The broader question of the protection of the State against these constant incursions of Texas fever is a much more difficult one than it was during the panic of 1868. Then the gulf coast cattle were easily recognized by their enormous horns and lank, bony frames. Now much of the stock from the South are half or three-fourths shorthorn, and are indistinguishable from Northern cattle. If, therefore, the Middle States cannot be persuaded to enforce the protective laws against the transit of the Texas, etc., cattle northward during the Summer season, which laws were so judiciously enacted in 1868, the Northern and Eastern States will continue to be at the mercy of unscrupulous cattle dealers, and nothing short of the interference of the Federal government can protect them. I would respectfully suggest that the Executives of the various Northern and Eastern States be requested to join in representing the danger to the authorities in the Middle States, and urging upon them the necessity for a more rigid execution of the laws against the Summer introduction of the Southern cattle, together with the re-enactment of such laws in cases where they have lapsed.

Respectfully,

JAMES LAW,

Cornell University, Ithaca, N. Y., September 7, 1880.

IN THE MATTER OF AN ORDER IN THE CASE OF THE PEOPLE EX REL. BABETTE STEMMLER, VS. JOHN KELLY, COMPTROLLER, &C.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *September 14, 1880.* }

In the case of The People ex rel. Babette Stemmler against John Kelly, as Comptroller, &c., in the New York Supreme Court.

Upon being served with an order from His Honor, Judge Beach, dated August 5th, for the examination of Alonzo B. Cornell and Henry E. Abell, that their testimony may be used upon the motion for a peremptory writ of mandamus therein, accompanied by a deposition prepared for signature, which does not truly state the facts therein mentioned, the Governor, with every consideration of respect for the Court, makes the following answer.:

The proper places of inquiry for the ascertainment of the enactment of laws of this State, are the officially published volumes of the laws, and the office of the Secretary of State, where all enacted statutes are placed on record. That any inquiry as to the details or particulars of the discharge of his constitutional prerogatives in the Executive Chamber, is an unwarranted and unconstitutional interference with those prerogatives, and is an implied censure upon the integrity and propriety of such official action. There is but one tribunal authorized to make such inquiry, and the Governor is unwilling to be questioned by any other authority. He therefore declines to make such deposition, and to be examined in the case above entitled, or to permit his Private Secretary, or any other person officially connected with the Executive Chamber, to be examined in the said case for such purpose. As a matter of courtesy to the Court, however, he

will state in this connection that the bill to which this order relates, was never approved by the Governor.

ALONZO B. CORNELL.

PROCLAMATION, APPOINTING A DAY OF THANKSGIVING.

STATE OF NEW YORK, {
EXECUTIVE CHAMBER. }

PROCLAMATION,

BY ALONZO B. CORNELL, GOVERNOR.

With grateful acknowledgment of Divine favor, and in conformity with a custom long honored by our forefathers, and recognized by the law of this State, Thursday, the twenty-fifth day of November, instant, is hereby designated and set apart as a day of Thanksgiving, for the manifold blessings we have been permitted to enjoy during the past year.

The seasons in their course have been propitious, and bountiful harvests have rewarded the toil of the husbandman. Renewed prosperity in commercial and manufacturing enterprises has furnished labor with ready employment, while comfort and contentment have dwelt in the homes of industry. The public health has been good; peace and order have prevailed, and the laws have been duly enforced.

Thankful for these especial manifestations of the infinite goodness of our Heavenly Father, and recognizing absolute dependence upon Him for our existence, happiness and prosperity, it is recommended that on the day herein appointed the people of this State abstain from their usual vocations, and assembling in their accustomed places of worship, give due expressions of gratitude for His protection and guidance. Having discharged this sacred duty,

let it also be a day for the re-union of families and the renewal of the ties of friendship. While thus engaged forget not the unfortunate and needy, but remember them with generous heart and open hand, accordingly as each may have been blessed with ability to bestow.

Done at the Capitol, in the city of Albany, this first
[SEAL.] day of November, in the year of our Lord one
thousand eight hundred and eighty.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

ANSWER TO A WRIT OF CERTIORARI IN THE CASE OF JOHN
JORDAN, AN ALLEGED FUGITIVE FROM JUSTICE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *December 1, 1880.* }

To the Supreme Court of the State of New York :

Referring to the action of a Justice of the Supreme Court in allowing a writ of *certiorari* commanding the Governor to certify to a Special Term of the said Court at the Court House in the city of New York, on the second day of December instant, “the day and cause of imprisonment and the issuance of a warrant of extradition for the arrest and delivery of John Jordan,” the Governor makes the following statement :

He denies the right of the Court or a Judge thereof, to issue said writ of *certiorari*, or to review directly or indirectly the action of the Governor in the discharge of the duty imposed upon him by the Constitution and laws of the United States, and of this State in respect to the surrender of

fugitives from justice. He further denies the authority of the Court by such process, to compel the production of the papers in question.

Presuming, however, that the writ was granted by inadvertence, and without intention to interfere with the performance of Executive duty, the Governor would state, that a warrant of extradition was issued in pursuance of a requisition in due form from the Governor of the State of Connecticut, for the surrender of the said John Jorden, charged with the crime of theft committed in that State.

ALONZO B. CORNELL.

REPORT OF THE STATE BOARD OF HEALTH ON THE COMPLAINT OF THE HEALTH BOARD OF HART'S FALLS.

STATE OF NEW YORK:

BOARD OF HEALTH,
ALBANY, *December 17, 1880.* }

To His Excellency, ALONZO B. CORNELL, *Governor of New York.*

SIR: The State Board of Health respectfully submits to you the following memorandum of its action upon the alleged nuisance complained of by the local Board of Health at Hart's Falls, and officially referred to this Board by your Excellency, August 3, 1880. Concerning the nuisance the Board finds the complaint of the local authorities of Hart's Falls well sustained.

September 22d, this Board voted unanimously that they are of opinion that "the cause of the malarial disease now prevailing in the village of Hart's Falls is the condition of the pools occupying the old channels of the Hoosick river, east of the town and within the railroad embankment; and that the unhealthful conditions were produced primarily

by the building of the railroad embankment across the upper end of the north channel, leaving it a stagnant pond ; and that the unhealthfulness of the locality was further increased by the building of the paper mill dam backing up water into the old channel."

At a meeting of this Board November 27th, the following resolutions were adopted in compliance with a request from the Governor for any further information :

"*Resolved*, That malarial disease prevalent at Hart's Falls is principally caused by the shallow fluctuating pools in the old river bed, and that these pools are therefore a nuisance."

"*Resolved*, That these pools were caused by the building of a railroad embankment some twenty-five years since."

Respectfully transmitted.

(Signed)

E. M. MOORE, *President*.

WM. M. SMITH, *Health Officer*.

C. F. CHANDLER,

ERASTUS BROOKS,

J. SAVAGE DELAVAN,

JAMES T. GARDINER,

JAMES G. HUNT,

ELISHA HARRIS, *Secretary*.

MEMORIAL IN THE MATTER OF THE BOUNDARY LINE BETWEEN THE STATES OF NEW YORK AND CONNECTICUT.

To the Congress of the United States :

In accordance with the concurrent action of the Legislature of the State of New York, and the General Assembly of the State of Connecticut, the undersigned respectfully communicate and make known to Congress that the agreement in relation to the boundary lines between the State of New York and the State of Connecticut, entered into by commissioners on the part of the said two States, has been formally ratified

and confirmed, as specifically shown and set forth by the acts of the Legislatures of the respective States, true copies of which are hereto annexed.

And pursuant to said acts, in like terms adopted, it is hereby respectfully requested by us jointly, on the part of our respective States, that the action taken and done on the subject of the boundaries thus established, be approved by Congress.

(Signed)

ALONZO B. CORNELL,

Governor of the State of New York.

CHARLES B. ANDREWS,

Governor of the State of Connecticut.

August, 1880.

[Inclosures. Copies of the acts of the General Assembly of Connecticut, and the Legislature of New York passed during the sessions of 1880, relative to subject of the boundary line.]

APPENDIX.

STATEMENT OF PARDONS, COMMUTATIONS OF SENTENCE AND REPRIEVES GRANTED BY THE GOVERNOR, FOR THE YEAR 1880.

PARDONS.

January 14, 1880. William J. Damon. Sentenced December 29, 1879; county, Erie; crime, vagrancy; term, sixty days; prison, Erie County Penitentiary.

January 22, 1880. John Hogan. Sentenced December 11, 1879; county, Onondaga; crime, assault and battery; term, ninety days; prison, Onondaga County Penitentiary.

January 24, 1880. Elizabeth Dean. Sentenced September 9, 1879; county, Oneida; crime, assault and battery; term, six months; prison, Onondaga County Penitentiary.

January 28, 1880. Joseph Rheon. Sentenced January 9, 1880; county, St. Lawrence; crime, petit larceny; term, three months; prison, Onondaga County Penitentiary.

February 13, 1880. Chauncey Avery. Sentenced December 11, 1879; county, Chenango; crime, petit larceny; term, ninety days; prison, Chenango County Jail.

February 13, 1880. Ambrose Suits. Sentenced December 3, 1877; county, Monroe; crime, grand larceny; term, three years; prison, Monroe County Penitentiary.

Upon condition that he shall leave this State immediately upon his release, and shall not return within three years from the date of this pardon.

February 17, 1880. Benjamin D. Francis. Sentenced December 20, 1879; county, Tompkins; crime, petit larceny; term, six months; prison, Monroe County Penitentiary.

February 17, 1880. Dewey J. Boyce. Sentenced September 10, 1877; county, Sullivan; crime, burglary and larceny; term, four years; prison, Clinton.

March 4, 1880. George Cook. Sentenced December 2, 1878; county, Erie; crime, grand larceny; term, two years; prison, Erie County Penitentiary.

March 10, 1880. Jacob Hickman. Sentenced February 20, 1880; county, New York; crime, assault and battery; term, two months; prison, New York County Penitentiary.

March 11, 1880. Thomas Degan. Sentenced April 1, 1876; county, Oswego; crime, robbery in the first degree; term, seven years; prison, Auburn.

[Died before the pardon reached the prison.]

March 18, 1880. Elijah J. Melius. Sentenced September 11, 1879; county, Chenango; crime, embezzlement; term, one year; prison, Auburn.

Upon condition that he shall leave this State immediately upon his release, and shall not return within two years from the date of this pardon.

March 19, 1880. Erastus Owens. Sentenced February 9, 1880; county, Cayuga; crime, intoxication; term, sixty days; prison, Cayuga County Jail.

March 23, 1880. Michael O'Donnell. Sentenced March 10, 1880; county, Montgomery; crime, intoxication and disorderly conduct; term, one hundred and fifty days; prison, Albany County Penitentiary.

March 26, 1880. Jennie Wildey. Sentenced February 5, 1880; county, New York; crime, grand larceny; term, two years and six months; prison, New York County Penitentiary.

Upon condition that she shall leave this State immediately upon her release and shall not return within two years and six months from the date of this pardon.

March 26, 1880. Dora McKinzie. Sentenced January 21, 1880; county, Oswego; crime, assault and battery; term, ninety days; prison, Onondaga County Penitentiary.

March 27, 1880. Fred Robinson. Sentenced September 10, 1878; county, Allegany; crime, burglary in the third degree; term, two years; prison, Auburn.

April 1, 1880. Frank A. White. Sentenced March 8, 1880; county, Niagara; crime, intoxication and disorderly conduct; term, four months; prison, Erie County Penitentiary.

April 1, 1880. Camelia Coleman. Sentenced January 9, 1880; county, New York; crime, receiving stolen goods; term, six months; prison, New York County Penitentiary.

Upon condition that she be taken to the House of Good Shepherd, or some other Reformatory, immediately upon her release and remain an inmate for six months or longer.

April 10, 1880. Robert Neeley. Sentenced October 7, 1876; county, Cortland; crime, burglary and larceny; term, fifteen years; prison, Auburn.

Upon condition that he shall leave this State immediately upon his release and shall not return until after the expiration of the term of his original sentence.

April 14, 1880. Richard Egan. Sentenced May 29, 1877; county, New York; crime, grand larceny; term, five years; prison, Sing Sing.

April 15, 1880. Hugh Norton. Sentenced September 19, 1879; county, Albany; crime, breach of the peace; term, eleven months; prison, Albany County Penitentiary.

April 20, 1880. John Carney. Sentenced June 17, 1879; county, Clinton; crime, felonious assault; term, two years; prison, Clinton.

Upon condition that if he be found intoxicated at any time prior to the expiration of the term for which he was sentenced, this pardon shall become void and inoperative, and he shall be returned to the prison and be made to serve out his unexpired term.

May 22, 1880. Joseph Carroll. Sentenced September 29, 1879; county, Kings; crime, grand larceny; term, ———; prison, Elmira Reformatory.

June 4, 1880. Patrick Short, Jr. Sentenced June 3, 1875; county, Erie; crime, assault to harm and grand larceny after felony; term, twelve years; prison, Auburn.

It appearing that the primary and leading cause to the commission of the offense for which he was convicted, was the intemperate use of intoxicating liquor, this pardon is therefore granted only upon condition, that the said Patrick Short, Jr., shall totally abstain from the use of intoxicating liquor during the remainder of the time for which, but for this pardon, he would have

been liable to imprisonment; and in the event of his not complying at all times with this condition, this pardon shall cease and become inoperative, and he shall be arrested and imprisoned according to his sentence.

June 14, 1880. John McDonald. Sentenced April 21, 1879; county, Kings; crime, attempted burglary in the third degree; term, one year and six months; prison, Kings County Penitentiary.

June 16, 1880. Patrick Nugent. Sentenced January 20, 1880; county, Wyoming; crime, assault with a dangerous weapon; term, one year; prison, Erie County Penitentiary.

It appearing that the primary and leading cause to the commission of the offense for which he was convicted, was the intemperate use of intoxicating liquor, this pardon is therefore granted only upon condition, that the said Patrick Nugent shall totally abstain from the use of intoxicating liquor during the remainder of the time for which, but for this pardon, he would have been liable to imprisonment; and in the event of his not complying at all times with this condition, this pardon shall cease and become inoperative and he shall be arrested and imprisoned according to his sentence.

June 17, 1880. William C. Parker. Sentenced December 21, 1877; county, Ontario; crime, robbery in the first degree; term, five years and six months; prison, Auburn.

June 29, 1880. Leslie Hironymus. Sentenced December 1, 1879; county, New York; crime, assault to harm; term, five years; prison, Sing Sing.

Upon condition that he shall immediately leave this State upon his release, and shall not return during the remainder of the time for which, but for this pardon, he would have been liable to imprisonment; and in the event of his not complying with this condition, this

pardon shall cease and become inoperative, and he shall be arrested and imprisoned according to his sentence.

July 15, 1880. Charles Baker. Sentenced January 6, 1879 ; county, New York ; crime, forgery in the third degree ; term, three years ; prison, New York County Penitentiary.

Upon condition that he shall immediately leave this State upon his release, and shall not return during the remainder of the time for which, but for this pardon, he would have been liable to imprisonment ; and in the event of his not complying with this condition, this pardon shall cease and become inoperative, and he shall be arrested and imprisoned according to his sentence.

October 14, 1880. Charles Harris. Sentenced April 16, 1875 ; county, New York ; crime, burglary in the first degree ; term, fifteen years ; prison, Sing Sing, transferred to Auburn.

Upon condition that he, on the twentieth day of this month of October, 1880, depart from this State and country and never return to the same ; and in the event of his not complying with this condition in every particular, this pardon shall cease and become inoperative, and he shall be arrested and imprisoned according to his sentence.

December 9, 1880. Henry Parrott. Sentenced July 6, 1880 ; county, Clinton ; crime, assault and battery ; term, six months, and to pay a fine of fifty dollars or stand committed until paid ; prison, Clinton County Jail.

COMMUTATIONS.

March 10, 1880. Thomas Smith. Sentenced December 15, 1877 ; county, Kings ; crime, burglary in the second degree ; term, ten years ; prison, Kings County Penitentiary.

Sentence commuted to two years and six months, from December 15, 1877, and will terminate the fourteenth day of June, 1880.

March 24, 1880. William Gill. Sentenced February 2, 1875 : county, New York ; crime, robbery in the first degree : term, twenty years ; prison, Sing Sing, transferred to Clinton.

Sentence commuted to eight years, from February 2, 1875, subject to the legal deduction for good conduct.

March 24, 1880. Ella Mead. Sentenced May 28, 1879 : county, New York ; crime, assault with intent to kill : term, five years ; prison, New York County Penitentiary.

Sentence commuted to one year, from May 28, 1879, and will terminate the twenty-seventh day of May, 1880.

March 27, 1880. Henry Lang. Sentenced September 10, 1875 ; county, New York ; crime, burglary in the second degree ; term, ten years ; prison, Sing Sing, transferred to Auburn.

Sentence commuted to seven years, from September 10, 1875, subject to the legal deduction for good conduct.

April 20, 1880. Albert G. Shapland. Sentenced January 30, 1880 ; county, Oneida ; crime, petit larceny ; term, one hundred and eighty days ; prison, Onondaga County Penitentiary.

Sentence commuted to three months, from January 30, 1880, and will terminate the twenty-ninth day of April, 1880.

May 6, 1880. Joel Odell. Sentenced April 12, 1880 ; county, Jefferson ; crime, violation of the excise law ; term, sixty days ; prison, Jefferson County Jail.

Sentence commuted to thirty days, from April 12, 1880, and will terminate the eleventh day of May, 1880.

May 10, 1880. George Buck. Sentenced July 17, 1877 ;

county, Washington ; crime, burglary ; term, five years ; prison, Clinton.

Sentence commuted to three years and nine months, from July 17, 1877, subject to the legal deduction for good conduct.

May 15, 1880. Byron Fluno. Sentenced September 22, 1877 ; county, Jefferson ; crime, burglary in the third degree ; term, six years, two sentences of three years each ; prison, Auburn.

Sentence commuted to three years and six months, from September 22, 1877, subject to the legal deduction for good conduct.

May 15, 1880. William O'Brien. Sentenced January 26, 1880 ; county, New York ; crime, assault and battery ; term, one year ; prison, New York County Penitentiary.

Sentence commuted to four months, from January 26, 1880, and will terminate the twenty-fifth day of May, 1880.

May 15, 1880. Samuel L. Mendes. Sentenced April 12, 1878 ; county, New York ; crime, sending a threatening letter ; term, four years ; prison, Sing Sing.

Sentence commuted to two years and eight months, from April 12, 1878, subject to the legal deduction for good conduct.

May 21, 1880. Daniel Doyle. Sentenced February 21, 1880 ; county, Albany ; crime, petit larceny ; term, six months ; prison, Albany County Penitentiary.

Sentence commuted to three months, from February 21, 1880, and will terminate the twentieth day of May, 1880.

June 9, 1880. Richard Donovan. Sentenced March 15, 1880 ; county, Erie ; crime, assault and battery ; term, six months ; prison, Erie County Penitentiary.

Sentence commuted to three months, from March 15,

1880, and will terminate the fourteenth day of June, 1880.

June 9, 1880. James D. Barber. Sentenced February 12, 1879; county, Cattaraugus; crime, burglary in the third degree; term, two years; prison, Erie County Penitentiary.

Sentence commuted to one year and seven months, from February 12, 1879, subject to the legal deduction for good conduct.

July 3, 1880. Hugh Develin. Sentenced July 11, 1878: county, New York; crime, assault with intent to kill: term, six years; prison, Sing Sing.

Sentence commuted to two years and six months, from July 11, 1878, subject to the legal deduction for good conduct.

July 15, 1880. Louis Laundry. Sentenced January 20, 1880; county, Rensselaer; crime, seduction under promise of marriage; term, two years; prison, Clinton.

Sentence commuted to six months, from January 20, 1880, and will terminate the nineteenth day of July, 1880.

August 2, 1880. Nelson Gaylord. Sentenced December 9, 1878; county, Westchester; crime, grand larceny; term, three years; prison, Albany County Penitentiary.

Sentence commuted to two years, from December 9, 1878, subject to the legal deduction for good conduct.

August 16, 1880. Union C. Osterhout. Sentenced June 22, 1880; county, Otsego; crime, asault and battery; term, six months; prison, Albany County Penitentiary.

Sentence commuted to sixty days, from June 22, 1880, and will terminate the twenty-first day of August, 1880.

October 14, 1880. Joseph Crouthers. Sentenced December 21, 1877; county, Ontario; crime, robbery in the first degree; term, five years and six months; prison, Auburn.

Sentence commuted to three years and nine months,

from December 21, 1877, subject to the legal deduction for good conduct.

REPRIEVES.

January 29, 1880. Nathan Orlando Greenfield. Sentenced October, 1879; county, Onondaga; crime, murder in the first degree; term, to be hanged December 12, 1879; reprieved December 10, 1879, until Friday, the thirtieth day of January, 1880; prison, Onondaga County Jail.

Reprieved until Friday, the twenty-seventh day of February, 1880.

February 24, 1880. Nathan Orlando Greenfield. Sentenced October, 1879; county, Onondaga; crime, murder in the first degree; term, to be hanged December 12, 1879; reprieved December 10, 1879, until Friday, the thirtieth day of January, 1880; and again reprieved January 29, 1880, until Friday, the twenty-seventh day of February, 1880; prison, Onondaga County Jail.

Reprieved until Friday, the twenty-third day of April, 1880.

March 15, 1880. Henry Moett. Sentenced February, 1880; county, Columbia; crime, murder in the first degree; term, to be hanged March 19, 1880; prison, Columbia County Jail.

Reprieved until Friday, the thirteenth day of April, 1880.

March 24, 1880. Carl, otherwise called Charles Manke. Sentenced January, 1880; county, Erie; crime, murder in the first degree; term, to be hanged April 2, 1880; prison, Erie County Jail.

Reprieved until Friday, the fourteenth day of May, 1880.

May 22, 1880. Chastine Cox. Sentenced July, 1879; county, New York; crime, murder in the first degree; term, to be hanged August 29, 1879; stay of proceedings

granted and re-sentenced to be hanged May 28, 1880 ; prison, New York County Jail.

Reprieved until Friday, the sixteenth day of July, 1880.

May 22, 1880. Pietro Balbo. Sentenced December, 1879 : county, New York ; crime, murder in the first degree ; term, to be hanged January 16, 1880 ; stay of proceedings granted, and re-sentenced to be hanged May 28, 1880 ; prison, New York County Jail.

Reprieved until Friday, the sixth day of August, 1880.

INDEX.

MISCELLANEOUS.

Bowen, Hon. Samuel A., charges against.....	21
Certiorari, writ of, answer to in Babette Stemmler case.....	100
Certiorari, writ of, answer to in the case of requisition for the surrender of John Jordan.....	102
Church, Hon. Sanford E., Chief Judge of the Court of Appeals, announcing the death of.....	42
Congress of the United States, memorial to.....	104
Cooper, Hon. Edward, Mayor, relative to lotteries.....	94
Hoyt, Governor Henry M., declining on his requisition to surrender James Heckhart.....	26
Hoyt, Governor Henry M., revoking requisition for Thomas Mathews.....	92
King, Hon. John A., designated as representative of the State of New York at Centennial Anniversary of the surrender of Cornwallis.....	22
Letchworth, Hon. William P., President of the State Board of Charities, recommending.....	77
Message, annual.....	3
Message, transmitting report of General M. R. Patrick, Agent of the State for the suppression of contagious diseases among cattle.....	21
Message, recommending the Revised Statutes be so amended as to make the Secretary of State the official custodian of the Great Seal.....	23
Message, recommending removal of the Trustees of the Binghamton Asylum for the Chronic Insane.....	38
Nash, Hon. S. P., President, etc., relative to charges against Judge Sinnott..	35
Phelps, B. K., District Attorney, instructions to against lotteries.....	94
Post, James S., Building Superintendent of the Hudson River Hospital, supersedure of.....	29
Secretary of State, relative to boundary line between New York and Con- necticut.....	91
Sinnott, James P., Justice of the Marine Court, New York city, charges against.....	29
Sinnott, James P., Justice of the Marine Court, New York city, requesting additional proof.....	34

State Board of Health, transmitting to, complaint in Hart's Falls case.....	93
State Board of Health, transmitting to, complaint of authorities of Buffalo..	96
State Board of Health, report of, on Hart's Falls complaint.....	103
Wadsworth, Hon. James W., Comptroller, recommending removal of the Trustees of the Binghamton Asylum for the Chronic Insane.....	36
Ward, Hon. Hamilton, Attorney General, assigned as counsel to assist upon the trial of John Hughes.....	23
White, Nathaniel M., charges against	22

MEMORANDA FILED WITH CERTAIN BILLS, APPROVED BY THE GOVERNOR, IN THE OFFICE OF THE SECRETARY OF STATE.

Brooklyn, city of, amending charter.....	46
Brooklyn, city of, relating to unpaid taxes in.. ..	88
New Capitol, making appropriation for.....	35
New York and Brooklyn bridge.....	30
New York city, for the relief of Clerks and assistant Clerks of District Courts in... ..	32
Taxes, to provide for raising upon certain corporations... ..	40

PLEURO-PNEUMONIA AMONG CATTLE.

Law, Professor James, requesting him to visit the herd of cattle on the farm of William Clark, near Oswego city	97
Law, Professor James, report of	97
New York County Sheriff, instructions to	78
Putnam County Sheriff, instructions to	80
Queens County Sheriff, instructions to	80
Richmond County Sheriff, instructions to	79
Rockland County Sheriff, instructions to	78
Westchester County Sheriff, instructions to	81

PROCLAMATION.

Thanksgiving.....	101
-------------------	-----

VETOES.

Brooklyn, city of, to amend charter of.....	24
Brooklyn, city of, relative to railroad in Water street.....	41
Canals, appropriations for, certain items objected to.....	47

INDEX.

119

Code of Criminal Procedure.....	90
Eighteen Mile Creek, relating to enlargement of.....	44
Game Law, amending the.....	28
Kings county, creating additional officers in.....	25
Loon Lake, preservation of fish in.....	40
Middleburgh, village of, relating to separate road district in.....	24
Middletown, Richmond county, relating to separate road district in.....	82
New York city, prohibiting construction of buildings of combustible material in certain streets.....	38
New York city, in regard to markets in.....	45
Niagara county, relative to the support of the poor in.....	25
Notaries Public, to provide for additional.....	31
Public Instruction, relating to.....	27
Revised Statutes, relating to taxation.....	87
Richmond county, conferring additional authority upon the Clerk of....	81
State Board of Audit, making appropriations on awards by.....	83
Supply bill, objection to items in.....	49
Taxes, assessment and collection of, relating to.....	39

APPENDIX.

Pardons, commutations, and reprieves, 1880.....	105
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PUBLIC PAPERS
OF
ALONZO B. CORNELL,
GOVERNOR
OF THE
STATE OF NEW YORK.
1881.

ALBANY:
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1881.

PUBLIC PAPERS
OF
GOVERNOR CORNELL.

ANNUAL MESSAGE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *January 4, 1881.* }

To the Legislature :

As the representatives of the people, intrusted with the important duty of making laws for their government, you are cordially welcomed to the halls of legislation. The circumstances under which you meet are extremely auspicious. The exceptional prosperity which under the favor of Divine Providence has attended our people during the past year is a cause of especial congratulation. Never, perhaps, in the history of the State has a single year been so fruitful in beneficent results. Almost every material interest has prospered in a remarkable degree. Agriculture, commerce and the manufactures have alike enjoyed the advantages of renewed activity. Labor has been in ready demand, and has received increased reward ; while comfort and contentment have found abode in many hitherto cheerless homes.

The influences which have thus contributed to the individual well-being of our citizens have also been conducive to a favorable condition of public affairs. The peace and good order of the State have been preserved without interruption, while we have passed through a political contest of more than usual interest and excitement.

In entering upon the duties and responsibilities of a new year, it is proper that we should reverently acknowledge our obligations to the Supreme Being for the manifold blessings so generously bestowed upon us in the past, and humbly invoke His continued protection and guidance.

FINANCES.

It is gratifying to be enabled to inform you that the financial condition of the State is eminently satisfactory. The revenues have been sufficient to meet all current liabilities, besides contributing \$600,000 to the Sinking Fund, and leaving the surplus on hand \$250,000 larger than at the close of the previous fiscal year. The following statement exhibits the transactions of the financial department for the past fiscal year, and the general condition of the State Treasury on the 30th of September, 1880 :

Receipts and Payments.

Aggregate balances in the Treasury of all the funds October 1, 1879	\$4,518,356 41
Aggregate receipts during the fiscal year ending September 30, 1880.....	11,835,570 93
	\$16,353,927 34
Deduct payments during the year	12,905,711 96
Balance in the Treasury Sept. 30, 1880....	<u>\$3,448,215 38</u>
The amount of receipts into the Treasury on account of the General Fund revenue, during the year ending September 30, 1880	\$5,859,566 20
The payments	6,290,418 91
Apparent deficiency, September 30, 1880.....	<u>\$430,852 71</u>

Supplementary Statement.

Balances due from county treasurers, Sept. 30, 1880, on State tax of 1879	\$222,606 92
Add amount paid on account of 1880 appropri- ations, included in tax levy, payable into the State Treasury in April and May, 1881, of which \$590,000 are for new Capitol.....	1,069,065 39
	\$1,291,672 31
Deduct apparent deficiency of the revenue, Sept. 30, 1880, as shown in preceding statement	\$430,852 71
Also balances of 1879 appropriations unpaid and in force September 30, 1880	208,059 99
	638,912,70
Actual surplus September 30, 1880.....	\$652,759 61

Debt.

On the 30th September, 1879, the total funded
debt was \$9,122,054.87, classified as follows :

General Fund (representing Indian annuities).	\$122,694 87
Canal	8,988,360 00
Bounty.....	11,000 00
	\$9,122,054 87

On the 30th September, 1880, the total funded
debt was \$9,114,054.87, classified as follows :

General Fund (representing Indian annuities).	\$122,694 87
Canal	8,988,360 00
Bounty	3,000 00
	\$9,114,054 87

The General Fund State debt is all paid, and the item of \$122,694.87, included above, represents the amount required to yield, at the rate of six per cent, the sum necessary to pay the Indian annuities. The balance of \$3,000, Bounty Debt, for which funds are provided, had not been presented for redemption at the close of the fiscal year. A balance of \$2,051,480.17 in the Canal Sinking Fund leaves the amount of that debt, unprovided for, September 30, 1880, at \$6,936,-879.83.

The State debt on the 30th September, 1879

after deducting the unapplied balances of the

Sinking Funds, amounted to \$7,659,426 39

On the 30th of September, 1880 (including \$122,-

694.87), to 7,059,574 70

Showing net contribution to Sinking Fund of \$599,851 60

The actual reduction of the debt during the

same period by cancellation being \$8,000 00

TAXATION.

For the current fiscal year the tax levy is at the rate of $3\frac{1}{2}$ mills, which is expected to produce the sum of \$9,232,542.33, while that of the previous year, being at the rate of $2\frac{863}{1000}$ mills, produced \$7,690,416.34. The increase in the tax levy for the current year became necessary to meet the appropriations of \$1,600,000 for the New Capitol.

The laws for the assessment of property as a basis for taxation have long been a cause of dissatisfaction to the people. In my first annual message the necessity of a revision of these laws was presented, and the last Legislature devoted much attention to the subject; but, unfortunately, no adequate measure of relief was perfected.

A single fact will demonstrate the importance of this subject. In 1869 real estate contributed 78 per cent of the public

revenue, and personal property paid 22 per cent; while in 1879 the real estate was made to pay 87 8-10 per cent, and personal property only 12 2-10 per cent of the whole tax. It would be difficult to show that the value of personal property has not increased to a larger extent in the past ten years than real estate. Indeed, it is claimed by persons well qualified to judge, that the value of personal property at the present time is quite equal to a fair valuation of the real estate.

Taxes should be fairly and impartially assessed, in order that the expenses of government be equitably apportioned among all citizens. It is a notorious fact that the present laws are so defective in their operation that a portion of the tax payers are permitted to escape their just proportion of the public charges, while onerous and unfair burdens are laid upon others.

The subject is one which directly affects the interests of all classes, and deserves prompt consideration. It is hoped that you will bestow upon it such attention as its importance demands, and that you may succeed in removing all cause of complaint.

Several measures were enacted by the last Legislature designed to create new sources of revenue by levying specific taxes upon corporations. These laws have not yet come into full effect, but they have already begun to make their contributions to the State Treasury. The receipts from these sources up to the close of the last fiscal year, September 30, amounted to \$141,127.03. The Comptroller estimates that when in entire operation a revenue of \$2,000,000 per annum may be expected.

Some amendments are required to perfect these laws and secure their complete enforcement. The Comptroller will present in his annual report the details of such changes as the experience of the finance department renders desirable.

CANALS.

The canals have shared the general prosperity, and carried a largely increased tonnage; greater than in any previous year, save only 1871 and 1872.

The revenues of the canals for the year ending September 30, 1880, were as follows :

Tolls	\$1,183,352 74
Rent of surplus water.....	2,177 08
Miscellaneous.....	14,604 81
Total.....	<u>\$1,200,134 63</u>
Total expenses for ordinary repairs, superintendence, and collection of tolls, ...	889,015 84
Surplus revenues of the canals for the fiscal year ending September 30, 1880	<u>\$311,118 79</u>

A comparison with the previous year shows the following results :

A gain in revenue of	\$278,881 82
Increase in expenses	137,241 02
Gain in net revenue	<u>\$141,640 80</u>

The amount necessary to meet the constitutional requirements in regard to the canal debt for the year is as follows :

For interest on canal debt	\$538,902 00
For the Sinking Fund.....	450,000 00
Total.....	<u>\$988,902 00</u>
Surplus revenues realized.....	311,118 79
Deficiency for year ending September 30, 1880,	\$677,783 21
Add deficiency in tax 1879	24,807 46
Add for interest on these deficiencies until the same can be realized from taxes.....	56,207 25
Total amount to be supplied by tax....	<u>\$758,797 92</u>

The canals were suddenly closed by ice in November, and more than one thousand boats were arrested in their passage. Of these seven hundred and forty-six were loaded with grain for tide water, containing, approximately, six millions of bushels.

The near completion of the enlargement of the Canadian canals renders the future of the Erie canal a subject of much concern, and well worthy of your intelligent consideration. If the enterprise of our neighbors in improved navigation is liable to place us at a disadvantage in competing for the carrying trade of the great West, it is high time that a remedy be sought to avert possible misfortune.

The State Engineer entertains the opinion that the capacity of the Erie canal can be largely increased at comparatively small cost by raising the banks, thus providing for an additional foot of water. He will present the question in detail in his annual report, to which your careful attention is respectfully directed.

The condition of the abandoned canals has become detrimental to the health of the people residing near them, and is the cause of serious complaint. Numerous cases of malarial fever have occurred, many of which proved fatal. Some legislation is necessary to authorize an abatement of the evil.

PUBLIC EDUCATION.

The interests of public education made gratifying progress during the past year. The attendance at school was largely increased; more teachers were employed, and the character of instruction was especially improved; and all at relatively less expense than for the previous year. These are hopeful indications for the growth of intelligence and the welfare of society. The maintenance of a well-ordered system of education, free to all who desire to enjoy its advantages, must

certainly prove of incalculable benefit to the future interests of the State.

The liberal education of the children who are to be the men and women of the next generation will, more than all else, insure the future greatness and continued pre-eminence of the Empire State. Public education is also a measure of public economy, for, as intelligence is the best antidote for vice and crime, the expenditures for education will lessen the demands for charity and correction.

The last Legislature enacted a law making women eligible to vote at school meetings, and to serve as school officers. In many localities women have already participated in school meetings, and in numerous instances they have been elected trustees. The measure has greatly increased the interest in school management, and must inure largely to the welfare of the schools. Some confusion exists in regard to the qualification of voters at school meetings, growing out of conflicting laws. This should be remedied by the enactment of a comprehensive act defining the rights of all participants in school matters.

The following statement, furnished by the Superintendent of Public Instruction, contains interesting statistical information in regard to the public schools :

Common School Statistics.

For the year ending September 30, 1880 :

Total receipts, including balance on hand September 30, 1879.....	\$11,390,888 16
Total expenditures	10,296,977 26
Amount paid for teachers' wages.....	7,638,921 88
Amount paid for school-houses, repairs, furniture, etc.....	1,145,831 15
Estimated value of school houses and sites....	30,747,509 00
Number of school-houses.....	11,899
Number of school districts, exclusive of cities	11,263

Number of teachers employed for the legal term of school	20,596
Number of teachers employed during any portion of the year.....	30,730
Number of children attending public schools.	1,031,593
Number of persons attending Normal schools.	5,753
Number of children of school age in private schools.....	108,567
Number of volumes in school district libraries	735,653
Number of persons in the State between the ages of five and twenty-one years.....	1,641,173

STATE PRISONS.

The experience of another year in the management of the State prisons has further vindicated the wisdom of the constitutional amendments in reference thereto. With the improved condition of the times the number of prisoners is gradually being reduced, as will be seen from the following comparative statement.

The average number of prisoners in the Clinton, Auburn and Sing Sing prisons for the last three years is as follows :

1878-9.....	3,379
1879-80.....	3,062
1880-1.....	2,970

The earnings and expenditures of the several State prisons for the fiscal year ending September 30, 1880, were as follows:

Sing Sing.

Earnings.....	\$217,028 69
Expenses.....	184,277 69
Surplus.	\$32,751 00

Amt. Bro't forward \$32,751 00

Auburn.

Earnings..... \$114,925 00

Expenses..... 130,108 75

Deficiency..... \$15,183 75

Clinton.

Earnings.... \$54,952 46

Expenses..... 90,606 69

Deficiency..... 35,654 23

50,837 95

Total deficiency \$18,086 98

BANKS.

The Superintendent of the Bank Department reports that sixty-eight banks of discount and deposit were doing business under the laws of this State, on the 1st of October, 1880, at which date their condition was as follows :

Resources.....	\$99,850 755
Capital.....	18,738 200
Surplus profits.....	8,058,280
Due depositors ..	61,795,773
Other liabilities.....	<u>11,258,502</u>

During the year deposits increased \$9,536,184 ; profits, \$821,715 ; loans and discounts, \$12,328,180. The net aggregate increase in assets was \$13,157,573. Six banks closed during the year, four of which went into voluntary liquidation, one converted into a National bank, and one failed. One new banking association was formed during the year.

One hundred and twenty-eight savings banks reported July 1, 1880, eleven of which do not receive deposits and have only

a nominal existence. Three went into voluntary liquidation, paying depositors in full.

The condition of the savings banks on the date named was as follows :

Resources.....	\$376,211,240
Due depositors	335,461,570
Surplus.....	40,543,454
Other liabilities.....	206,216
Number of depositors	912,863

The increase in the several items during the past year was as follows :

Resources.....	\$34,842,553
Deposits.....	30,769,230
Surplus	4,216,524
Number of depositors.....	85,011

The exceptionally large increase in deposits and number of new accounts is evidence not only of the increasing thrift and prosperity of our people, but of the complete restoration of public confidence in the management of these beneficent institutions.

Of trust, loan and mortgage companies, twelve institutions are in operation, having \$11,377,375 capital and \$96,713,717 of resources. Also eight corporations for the safe-keeping and guarantee of personal property, with aggregate capital of \$1,376,900.

INSURANCE.

Statistics furnished by the Insurance Department indicate that the condition of the several insurance companies doing business in this State has improved during the past year.

Of fire insurance companies one hundred and sixty-seven are now doing business in this State, as follows :

New York, 87 ; other States, 58 ; Foreign, 22 ; with total

assets of \$143,248,869; liabilities, including capital stock, \$94,107,073; net surplus, \$49,146,966. The gross cash income of these companies for the year was \$60,548,160, and their gross cash expenditure \$58,822,513.

Of life insurance companies, organized under the laws of this State, there are twelve now conducting business, with aggregate assets of \$202,562,831; liabilities, \$169,675,366; surplus to policy-holders, \$32,887,465; and nineteen other State companies, with assets of \$198,952,961; liabilities, \$166,562,705; surplus, \$32,390,256. Eighteen marine insurance companies are doing business in this State (seven of which are organized under the laws of New York), with assets amounting to \$20,147,902, and a net surplus of \$3,565,707; and four casualty insurance companies, with assets amounting to \$1,800,000, and a net surplus of \$271,000.

In the tables adopted by the laws of this State for the purpose of calculating the reserves on life insurance policies, the rate of interest assumed is $4\frac{1}{2}$ per centum. In view of the present market value of 4 per cent Government bonds and the general tendency to a lower rate of income upon all first-class securities, it becomes an important question whether the law should not be so amended as to provide a calculation upon a rate not higher than 4 per centum, and thus increase the amount of reserve required to be held to meet maturing claims of life insurance companies.

NATIONAL GUARD.

The National Guard comprises six divisions, eleven brigades, twenty-one regiments, five battalions and thirty-six separate companies of infantry, eight separate troops of calvary and ten separate batteries of artillery, making in the aggregate 18,102 officers and enlisted men.

In the belief that a considerable reduction of the force would prove beneficial, orders were issued during the past year for the disbandment of some of the weaker organiza-

tions; under which the following have been disbanded: 7th Division; 2d and 12th Brigades; 49th and 54th Regiments; 15th Battalion, 2d and 8th Separate Companies of Infantry; 3d Regiment and Troops H and K, Cavalry; and Batteries H and C, Artillery.

In my opinion the National Guard needs still further reduction, and a more thorough organization of the remainder, which it is hoped will be accomplished by the bill, should it become a law, which the commissioners appointed pursuant to chapter 546 of the Laws of 1880, will in due time report to the Legislature.

THE NEW CAPITOL.

The work on the New Capitol building has, under the liberal appropriations of the last Legislature, made marked progress during the past season. Every effort has been made by the Commissioners to complete the apartments designed for the Senate and Executive Department, in anticipation of the meeting of the Legislature, as required by law; but unforeseen obstacles have prevented the full realization of this object. These sections of the edifice are, however, well advanced, and it is confidently expected that they will be fully completed within a very few weeks.

The financial transactions of the Commissioners for the current year have been as follows:

There was on hand January 1, 1880, an unex-

pended balance of previous appropriation..	\$73,169 62
Chapter 33, Laws of 1880.	100,000 00
Chapter 138, Laws of 1880	1,500,000 00
	\$1,673,169 62
Expended during the year 1880.....	1,251,989 02
Balance on hand	\$421,180 60

Nearly if not quite all of this amount will be required to pay balances which will become due on contracts when completed, and other expenditures not yet reported.

A serious defect was recently discovered in the groined arch above the Assembly Chamber. A large stone in one of the ribs of the arch was found to have been fractured and completely severed. Notwithstanding a thorough investigation, the Superintendent has been unable to make any satisfactory explanation of the cause. The broken stone has been removed, and it is hoped that no further trouble will occur. It will be well, however, for the Legislature to satisfy itself of the present safety of that portion of the building.

CANAL APPRAISERS.

Although the canal system has long been completed, a large number of claims against the State for damages on account of the construction and use of the canals are still pending; and many new ones are annually presented. During the past year two hundred and twenty-five new claims were filed, amounting to \$428,820. One hundred and nine claims have been passed upon by the Canal Appraisers, in which \$311,364 were claimed as damages. There were allowed thereon \$32,805.22. At the close of the fiscal year eight hundred and eighteen claims were still pending. The amount awarded the past year is somewhat in excess of the year before, from the fact that a number of large claims of many years standing were finally disposed of. The amount of awards for the past five years was \$146,466 against \$1,364,191 for the preceding five years. This gratifying result is due to the constitutional and statutory safeguards which have been adopted, and a more thorough investigation of claims by the Appraisers.

RAILROAD TRANSPORTATION.

The last Legislature devoted a large part of its session to the consideration of measures designed to remedy certain

evils in railroad management. The two Houses having failed to agree, the unsatisfactory condition of this important subject still continues, and should receive your thoughtful attention. Aside from public taxation, perhaps, no question so seriously touches the interests of the people at large. Every community and all branches of business are directly affected by it. Unjust discriminations in the rates of transportation cause embarrassment and unnatural competition. Favoritism for one interest results in hardship to another. Stability and uniformity in freight tariffs are necessary for the safe conduct of business. Not only should equality of service be rendered to all citizens, but as well to all communities. For like service all patrons should be placed upon an equal footing; and as far as practicable, general publicity should be given to freight tariffs.

In securing justice for the people it is not necessary that injustice be visited upon the railroads. These enterprises, that have so largely aided the growth and development of the State, are entitled to fair treatment. With the experience of the past as a guide it is to be hoped that your wisdom will be equal to the importance of this question, which should receive a complete and successful solution at your hands.

CHARITABLE INSTITUTIONS.

The munificent provision made for the care and maintenance of the unfortunate classes in this State may be to some extent appreciated from the following statement.

The property, real and personal, held for charitable purposes in this State may be set down in round numbers as follows:

By State institutions.....	\$6,900,000 00
By cities and counties ...	6,200,000 00
By incorporated associations.....	21,900,000 00
Total	<u>\$35,000,000 00</u>

The total expenditure during the past year for the support of the several charitable institutions, public and private, reached about eight millions of dollars. The average number of beneficiaries was approximately as follows :

In State institutions.....	4,800
In city and county institutions.....	15,700
In incorporated benevolent institutions.	24,200
Total.....	<u>44,700</u>

The total number of insane persons in the several State and local asylums, poor-houses and private asylums for the years stated, was as follows :

October 1, 1880.....	9,543
October 1, 1879.....	9,015
October 1, 1878.....	8,781
October 1, 1877.....	<u>7,921</u>

The rapid increase of insanity is truly alarming, both as to the individuals affected and the necessary provision to be made for their care. The average annual increase of insane for the last four years has been four hundred persons. The Buffalo asylum, which has been so far completed as to accommodate three hundred patients, cost about a million and a quarter of dollars, or more than four thousand dollars for each inmate. Such extraordinary expenditures for the care and treatment of the insane seem like a profligate use of the public funds. Whatever future facilities may be required for this purpose should be provided upon a much more economical scale.

ELMIRA REFORMATORY.

The inmates of the Elmira Reformatory number about five hundred. The gross expenditure for maintenance during the past year was \$51,338, while the earnings amounted to \$62,657 ; leaving as the net expenditure of the State for maintenance,

the sum of \$21,681. Only \$6,541 were expended on account of construction during the year. The industries which have been established in the Reformatory are as yet in process of development, hence have not reached the maximum of production. The managers are sanguine that the institution will speedily become self-sustaining. The employment of the inmates is on public account, and without the intervention of contractors; which is considered essential to effect the reformatory influences contemplated. It is requisite, therefore, that capital be provided in some form, to furnish the materials necessary to conduct the business of the institution; and this, in the opinion of the managers, should be at least \$100,000. The question of providing means to enable the managers of such an institution to conduct business for account of the State is a serious one, and should have deliberate consideration. If this policy is to be adopted, it is all important that the business shall be surrounded by such safeguards as will insure successful and advantageous results. The whole subject is commended to your careful and intelligent attention.

COUNTY JAILS AND POOR-HOUSES.

The condition of the county jails and poor-houses was referred to in my last annual message as urgently demanding the attention of the Legislature. Additional information confirms my views then expressed, and induces me to earnestly recommend your serious consideration of the subject. The report made to the Legislature in March last by the commission appointed to visit the jails and penitentiaries makes an intelligent and concise presentation of the existing abuses, and is well worthy of careful attention. The present condition of many of these institutions is a reproach to the fair fame of the State, and should be reformed without delay.

For several years the proposition to establish reformatories for women has been agitated with growing interest. It can

hardly be doubted that such institutions, properly organized and conducted, would go far to remedy existing evils, and save the State from future burdens which, under present circumstances, are inevitable.

STATE BOARD OF HEALTH.

Pursuant to chapter 322 of the Laws of 1880, the State Board of Health was duly organized, and has made gratifying progress in preparing for the important work before it. Human life is constantly exposed to dangers which intelligent observation should point out and guard against. Besides the needless exposure of human life, it often happens that villages and cities suffer largely in their commercial interests from the prevalence of contagious diseases. Trade is frequently diverted, to the serious detriment of a community, when reasonable precaution would have avoided such a misfortune.

This new agency for protection has been established in response to the demands of an enlightened public sentiment; and great expectations of valuable results await its development. With the active co-operation of the local health authorities in furtherance of the suggestions and advice of the State Board of Health, it is believed that much good will be accomplished.

EMIGRATION.

The volume of emigration from Europe during the last year has been larger than in any year since 1854. As a rule, the persons landed have been of a character superior to those arriving in previous years; a much greater proportion being possessed of sufficient means to provide comfortably for themselves or their families.

The entire number of passengers landed at the port of New York from foreign countries, from January 1 to December 1, 1880, was 353,545. The number of those who came steerage or third-class and entered at the State Emigrant Depot, Castle

Garden, was 306,947 ; an increase of 180,676 over the previous year.

The number admitted during the above period to the State Emigrant Refuge and Hospital at Ward's Island, was 3,934 ; of which 581 remained in the institutions. Of these 339 are sick in hospital, 115 insane in the asylum, 85 crippled and 42 children. The Castle Garden Labor Bureau found employment, during the year, for 37,942. In view of the extraordinary number of arrivals the past year, the Commissioners are apprehensive that the appropriation for the support of the institutions under their charge will be inadequate to meet the necessary expenses.

It is to be hoped that Congress will be convinced of the propriety of relieving the State of a portion, at least, of this demand.

QUARANTINE.

In view of the extraordinary number of emigrants and others arriving at the port of New York during the past year, constant vigilance was required to prevent the introduction of contagious diseases.

Nine hundred and sixty-eight vessels arrived from ports subject to yellow fever, and two hundred and ninety-one from ports actually infected. Of these, one hundred and thirty-seven vessels reported sickness at the port of departure or on the passage. Ninety-eight cases of fever were admitted to the Quarantine hospital during the season, of which twenty-seven were yellow fever. Of the latter number, ten died ; and of all other cases seven proved fatal and eighty-one recovered. So far as is known no case of infectious or contagious disease has passed the Quarantine.

The Quarantine establishment has been visited during the past year by a number of eminent professional representatives of the Health Departments of other States and countries, who expressed their unqualified approval of its condition

and management, and acknowledged the belief that the New York Quarantine was superior to any other.

HARBOR MASTERS AND PORT WARDENS.

By a decision of the Supreme Court of the United States, that portion of the laws of this State relating to Harbor Masters which authorizes them to collect fees as a remuneration for their services, is held to be unconstitutional. There is, therefore, no legal compensation provided for services which the law still requires to be performed. The status of the Port Warden has likewise been brought into question by decisions of the courts, and their jurisdiction and authority disputed.

If the important duties which the law imposes upon these officers are to be continued, it is obvious that some suitable provision should be made in regard to them.

EXCISE LAWS.

The interests of good government demand a thorough revision of the Excise laws. The opponents of the liquor traffic, as well as those engaged in the business, believe that a change from the present chaotic condition is desirable. The existing enactments are ambiguous and inefficient in their operation. Conflicting opinions of the courts have added to the confusion. In consequence thereof, the officers who should enforce the laws find themselves paralyzed. For three consecutive years the annual messages of the Governor have contained recommendations for an entire revision of these laws; and the subject is again presented in the earnest hope that it will receive your patient consideration and wise action.

LOTTERY LAWS.

The Constitution provides that no lottery shall be authorized, or the sale of lottery tickets allowed, within this State. Laws designed to enforce this constitutional mandate have been duly enacted, but have proved insufficient to accomplish the purpose. They have been openly and flagrantly violated ;

and millions of dollars have been annually extracted from the earnings of the poor. The victims of this iniquitous traffic are mainly of a class needing the protection of the strong arm of law, and it is to be regretted that more vigorous efforts are not made in their behalf.

With ample constitutional authority available to remove this scandalous evil, it is the duty of the Legislature to frame such laws as will be effective in accomplishing the desired object.

MUNICIPAL AFFAIRS.

Partial steps were taken by the Legislature last year to economize the local governments of New York and Brooklyn. These should be followed by vigorous action in the same direction until the expenses of those cities, still too high by many millions of dollars, are reduced to a reasonable limit. For many years the ingenuity of man has been employed to create new offices and increase the salaries of others. Duties have been divided, while the salaries have been doubled, thus quadrupling the burdens of tax payers. In many instances property has actually been confiscated under the onerous exactions of the tax levy. It is my deliberate opinion that if one-third of the officials of New York and Brooklyn were mustered out, and the duties properly distributed among those remaining, the public would be better served than at present. The adoption of adequate measures to correct these shameful abuses would secure for the Legislature the lasting gratitude of a long-suffering people.

DISABLED JUDGES.

Embarrassment frequently occurs in the conduct of the courts by reason of the physical disability of judges. A striking instance is now presented in the Superior Court of the city of New York. One of the judges of which court, having been for two years wholly incapacitated, is not likely again to resume official labors. The only present mode of

relief is in removal by the Legislature in the cases of judges of the Court of Appeals and justices of the Supreme Court ; and by the Senate on the recommendation of the Governor, in the cases of judges of other courts of record. This remedy, designed originally for cases of official or personal misconduct, would seem unduly severe when applied to a faithful judge now prostrate from overwork, as the fact is understood to be in the particular case referred to.

It would manifestly accord more with the dictates of humanity, and be commended to popular approval, were special provision made for emergencies of this nature. A continuance of some reasonable portion of the salary of a judge thus removed for physical disability, during the balance of the term for which he was elected, would mitigate the severity of the proceeding to vacate the office.

IMPRISONMENT FOR DEBT.

It is the popular impression that imprisonment for debt was abolished in this State many years ago. Such, undoubtedly, was the intention when the laws to this end were enacted ; but unfortunately, as many victims can testify, the object was not attained. The county jail in the city of New York is never free of prisoners detained for debt ; and it is not uncommon to find from fifty to seventy-five debtors, so-called, confined therein ; some of whom have been kept there for years. Instances of imprisonment for claims as small as twenty dollars are not infrequent. Cruel hardship is constantly inflicted in this manner ; and it is due the unfortunate subjects of such outrage that the laws regulating imprisonment on civil process be thoroughly revised, and all obnoxious features expunged.

LOCAL AND SPECIAL LEGISLATION.

One of the greatest hindrances to good legislation consists of the fact that the time and attention of members are too much occupied with the consideration of a multitude of insig-

nificant local and private bills. These are pressed by special interests, and to a great extent interfere with measures of general import, and often to the prejudice of the public good. A specific constitutional amendment was recently adopted, designed to arrest the mischievous tendency in this direction ; but, unfortunately, the capability of man to overcome difficulties renders this safeguard less valuable than its framers anticipated. It is unbecoming the dignity of the State to incumber its code of laws with trivial enactments of the character mentioned ; and unless the Legislature interpose to check this growing evil, it will become my duty to exercise more rigidly the authority vested in the Executive in such regard.

THE CONNECTICUT BOUNDARY LINE.

The long-standing controversy in regard to the boundary line between this State and Connecticut has finally been adjusted in accordance with the terms agreed upon by the Commissioners appointed by the Legislatures of the two States. The necessary documents have been officially exchanged by the Executives, who have also united in a petition to Congress requesting the approval and confirmation of such settlement by the United States.

CONCLUSION.

The importance of the duties upon which you have this day entered may be realized in some measure, by reflecting that the five millions of population which the State now contains will have increased to ten millions in the next generation. Thus the laws which you enact will in near or remote degree affect a vast constituency.

The capital and enterprise of New York penetrate every portion of the Union, and exert a potent influence throughout the civilized world. Every other State is thus made tributary to her growth ; and her metropolis is fast becoming a commercial center of the first magnitude. The past career of

the State, grand as it is, will be eclipsed by her future development, if good government can be assured. Whatever you may do to lighten the public burdens will go far to promote this great end.

The honor and welfare of the State are thus committed to your care; its treasury placed in your keeping. You have taken a solemn oath to support the Constitution, and faithfully to discharge the duties involved to the best of your ability. May you be so enlightened and directed by Divine wisdom that this sacred obligation, with all it implies, will be fully discharged.

ALONZO B. CORNELL.

PROCLAMATION OF REWARD FOR THE MURDERER OF PETER McCANN.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

PROCLAMATION.

Whereas, It has come to my knowledge that on the night of the twenty-second of December, 1880, at a place called Jobville, in the town of Stillwater, county of Saratoga, a felonious assault was made upon one Peter McCann, by a person not yet apprehended, and from blows then and there inflicted, the said McCann subsequently died.

Now, therefore, a reward of five hundred dollars is hereby offered to be paid to any person who shall cause the arrest and conviction of the party who committed the murder of the said McCann.

Given under my hand and the Privy Seal of the State,
at the Capitol, in the city of Albany, this tenth
[L. S.] day of January, in the year of our Lord one
thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

PROCLAMATION OF REWARD FOR THE MURDERER OF CYNTHIA
SARGENT.STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

PROCLAMATION.

Whereas, It has come to my knowledge that Mrs. Cynthia Sargent was brutally murdered in her own house at the village of Fort Ann, county of Washington, on the ninth day of September, 1880, by some person or persons unknown.

Now, therefore, a reward of one thousand dollars is hereby offered to be paid to any person who shall cause the arrest and conviction of the party or parties who committed the murder of the said Cynthia Sargent.

Given under my hand and the Privy Seal of the State,
at the Capitol, in the city of Albany, this four-

[L. S.] teenth day of January, in the year of our Lord
one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor:

HENRY E. ABELL,
*Private Secretary.*SPECIAL MESSAGE RELATING TO PLEURO-PNEUMONIA AMONG
CATTLE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *January 26, 1881.* }*To the Legislature:*

At the recent annual meeting of the State Agricultural Society, resolutions relating to the disease of cattle, known as pleuro-pneumonia, were adopted, a copy of which resolutions, together with a letter from the secretary of the society, is herewith transmitted.

The prevalence of this contagious and fatal disorder seri-

ously menaces agricultural and dependent industries, in this State, and in the country at large; and disastrous consequences may be expected unless timely and vigorous steps be taken to prevent its spread into the grazing districts. A subject of such great importance demands, and will, no doubt, receive your prompt attention and co-operation. The hope is expressed that Congress will ultimately establish appropriate measures for the suppression of this disease among neat animals; but meanwhile, suitable provision should be made by the State to arrest its progress.

ALONZO B. CORNELL.

ORDER DIRECTING THE REMOVAL OF OBSTRUCTIONS IN THE
HOOSICK RIVER AT OR NEAR HART'S FALLS, AND THE
ABATEMENT OF A NUISANCE THEREAT.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, N. Y., *January* —, 1881. }

To the Boston, Hoosac Tunnel and Western Railroad Company, and to all others whom it may concern :

Complaint having been made to me by the Board of Health of the village of Hart's Falls, in the county of Rensselaer, of obstructions in the channels of the Hoosick river, adjacent to that village, which, by diverting the water of the river from its natural course, have rendered the locality extremely unhealthy: and I having, pursuant to the provisions of chapter 322 of the Laws of 1880, on the third day of August, A. D. 1880, required the State Board of Health to examine into the subject-matter of such complaint, in a communication to said board then made; and the State Board of Health, in pursuance of such requirement, having made such examination, and having on the 17th day of December, 1880, duly made report to me of the results thereof, and did so report

that "concerning the nuisance the board finds the complaint of the local authorities of Hart's Falls well sustained;" and the said report having been by me duly approved and filed, according to law, in the office of the Secretary of State, on the twenty-eighth day of January, 1881;

Now, therefore, I, Alonzo B. Cornell, Governor of the State of New York, by virtue of the powers in me vested by section eight of chapter 322 of the Laws of this State, of the year 1880, in relation to the matters and things so found and certified by the State Board of Health to be a public nuisance, do hereby declare the same to be a public nuisance, to wit. :

The shallow, fluctuating pools occupying the old channels of the Hoosick river east of and near the village of Hart's Falls, and within the embankment of the Boston, Hoosac Tunnel and Western railroad; also so much of the said railroad embankment as obstructs and prevents the water of the Hoosick river from flowing through the old and natural channels of said river, as and where it was accustomed to flow immediately before the construction of said embankment.

And by virtue of the power aforesaid, I do hereby order that so much of the said embankment of the Boston, Hoosac Tunnel and Western railroad east of and near to the said village of Hart's Falls, hereinbefore referred to and declared to be a nuisance, as obstructs and prevents the water of the Hoosick river from flowing through the old and natural channels of said river as and where it was accustomed to flow immediately before the construction of said embankment, be removed, of a width of at least one hundred feet, and of sufficient depth to pass the water; or that would allow the water of said river, in its ordinary flow, to pass through said embankment into said old and natural channels, said opening to be located between Rocky Island and the main land where the original channel flowed; also, to make an opening in the said railroad embankment between Rocky Island and Joy's Island

where the original channel flowed, of at least twenty feet in width and of sufficient depth to pass the water that would pass through said opening ; all to be done within three months after the service of this order upon the said railroad company.

Given under my hand and the Privy Seal of the State,
at the city of Albany, this twenty-eighth day of
[L. S.] January, in the year of our Lord one thousand
eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

SPECIAL MESSAGE ANNOUNCING TAX COMMISSION.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *February 16, 1881.*)

To the Legislature :

Pursuant to the concurrent resolution of the Senate and Assembly authorizing the appointment of a commission, to consist of not less than three nor more than seven citizens, to consult with and aid the joint committee of the two Houses already created, in their work of revising and amending the laws of assessment and taxation, the following named persons have been this day nominated and appointed as such commission or commissioners :

Joshua M. Van Cott, of the county of Kings.

Samuel D. Babcock,* of the city and county of New York.

Thaddeus Hait, of the county of Ulster.

Edward W. Foster, of the county of St. Lawrence.

John F. Seymour, of the county of Oneida.

George Geddes, of the county of Onondaga.

Alonzo Bradner, of the county of Livingston.

ALONZO B. CORNELL.

*Andrew H. Green, of New York, subsequently appointed in place of Samuel D. Babcock, declined.

VETO, ASSEMBLY BILL NO. 8, IN RELATION TO COMPENSATION OF COURT OFFICERS IN ERIE COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *February 28, 1881.* }

To the Assembly :

Assembly bill No. 8, entitled "An act to legalize the action of the board of supervisors of Erie county in relation to the compensation of court officers from September first, 1880," is herewith returned without approval.

The action of the board of supervisors, which this bill proposes to legalize and confirm, was in directing the clerk of the county to draw orders on the county treasurer in favor of court officers at the rate of two dollars per day, instead of one dollar and twenty-five cents, as provided by law. Nothing could be more positively in conflict with the Constitution, and the attempt to make such action legal by an act of the Legislature is obviously futile.

Section twenty-four of the third article of the Constitution declares that "the Legislature shall not, nor shall the Common Council of any city, nor any board of supervisors grant any extra compensation to any public officer, servant, agent or contractor."

The people have taken good care to divest the Legislature and boards of supervisors, of any and all authority of the kind proposed to be exercised in this bill, by securely planting the foregoing very proper safeguard in the fundamental law of the State, where it is safely beyond the reach of legislative enactment.

ALONZO B. CORNELL.

COMMUNICATION RELATIVE TO BOUNDARY LINE BETWEEN
THE STATES OF NEW YORK AND PENNSYLVANIA.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *March 2, 1881.* (To His Excellency, HENRY M. HOYT, *Governor of Pennsylvania :*

SIR : The accompanying documents relating to the boundary line between the States of New York and Pennsylvania, are respectfully presented to your attention. This line has been examined by a joint commission acting under the authority of the two States respectively. The result of this examination discovered the fact, 1, that the monuments erected by the original commissions in 1786 and 1787 to mark the line, have become so far decayed or obliterated as to require immediate steps for their restoration ; 2, that the line originally run and marked by the commissioners and ratified by the two States, although fixed with all the precision possible at that day, varies very considerably from the verbal description, sometimes on one side and sometimes on the other ; 3, but that this line so marked has since the settlement of the country formed the practical boundary between the lands belonging in, and the limits of jurisdiction of, the two States.

It is proper to say that the honorable commissioners appointed on the part of Pennsylvania, through their chairman, Col. Worrall, have advocated a re-survey of the entire line, and the establishment of a boundary which should rigidly conform to the verbal description. But the commissioners of New York have held that no practical advantage, but great inconvenience, would arise from any attempt to change the line from the original and accepted location.

Taking this view of the subject, and following the well-settled principles laid down by the Supreme Court of the United States (4 Howard), the Legislature of this State passed

an act May 20, 1880 [see page 6 of Report], declaring the lines originally laid down as the boundary line irrespective of their conformity to the verbal descriptions thereof; and authorized the Board of Regents of the University to appoint commissioners to meet commissioners of the State of Pennsylvania, vested with similar powers, and restore the monuments of the line originally surveyed and marked.

The attention of your Excellency is respectfully called to this action, with the request that you will take whatever steps may be necessary to bring about an early and satisfactory settlement of the line, and the much needed restoration of the monuments.

Very respectfully,

Your obedient servant,

ALONZO B. CORNELL.

[3 inclosures.]

RELATIVE TO BOUNDARY LINE BETWEEN THE STATES OF
NEW YORK AND NEW JERSEY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER.)
ALBANY, *March 2, 1881.* (

To His Excellency GEORGE C. LUDLOW, *Governor of New Jersey :*

SIR: A copy of an act passed by the Legislature of New York May 20, 1880, relating to the settlement of the boundary line between the State of New York and the States of Pennsylvania and New Jersey respectively, is herewith transmitted, together with a report of the commissioners appointed on behalf of New York, on the boundary line between New York and Pennsylvania.

This commission, created by the act above referred to, is authorized to meet any commissioners vested with similar powers on the part of the State of New Jersey; and to pro-

ceed to ascertain and agree upon the location of the boundary line as originally established between the two States. There is reason to believe that the monuments which were originally erected to mark this line have become greatly dilapidated, and that it is in the highest degree desirable to take early measures to restore them.

Your attention is respectfully directed to the action taken by the Legislature of this State, with the request that you will take whatever steps may be necessary to bring about an early and satisfactory settlement of the line, and the much needed restoration of the monuments.

Very respectfully,

Your obedient servant,

ALONZO F. CORNELL.

[3 inclosures.]

REPLY OF GOVERNOR HOYT, ON THE BOUNDARY LINE.

COMMONWEALTH OF PENNSYLVANIA :

EXECUTIVE CHAMBER,)
HARRISBURG, *March 9, 1881.*)

SIR: I have the honor to acknowledge the receipt of the communication of your Excellency, and the accompanying documents relative to the boundary between New York and Pennsylvania, and the action of the former State thereon; and to inform you that the attention of the Legislature and the proper committees will be called to the matter, and action urged in accordance with the suggestions contained in your communication, and in conformity to the act of the New York Legislature.

I have the honor to be,

Yours, very respectfully,

HENRY M. HOYT.

To His Excellency ALONZO B. CORNELL, *Governor of New York.*

PROCLAMATION CALLING A SPECIAL ELECTION FOR MEMBER
OF ASSEMBLY IN FRANKLIN COUNTY.STATE OF NEW YORK,
EXECUTIVE CHAMBER, ALBANY. }

Whereas, A vacancy exists in the office of Member of Assembly for the county of Franklin, in consequence of the death of William D. Brennan,

Now, therefore, by virtue of the authority vested in me, a special election is hereby ordered to be held in and for the Assembly district comprising the county of Franklin, on Tuesday, the fifth day of April next, for the purpose of choosing a Member of Assembly in the place of the said William D. Brennan, whose term of office began on the first day of January, 1881, and will expire on the thirty-first day of December in the year eighteen hundred and eighty-one.

Given under my hand and the Privy Seal of the State,
at the Capitol in the city of Albany, this fifteenth
[L. s.] day of March, in the year of our Lord, one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL.

*Private Secretary.*VETO, ASSEMBLY BILL No. 41, REPEALING ACT REDUCING THE
PAY OF CERTAIN TOWN OFFICERS IN SULLIVAN COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. }
ALBANY. *March 17, 1881.* {*To the Assembly :*

Assembly bill No. 41, entitled "An act to repeal chapter 47 of the Laws of 1879, entitled 'An act authorizing the reduction of pay of certain town officers in the county of Sullivan,' " is herewith returned without approval.

This bill is in fatal conflict with two separate provisions of

the Constitution. Section 18 of the third article thereof prohibits the enactment of a local bill creating, increasing or decreasing the compensation of public officers during their term of service, and section 24 of the same article provides that the Legislature shall not grant any extra compensation to any public officer.

The Constitutional objections to the bill could of course be remedied by providing that it should take effect at the expiration of the term of office of the several officers now in service. This, however, would in my opinion be unwise. Many of the towns in Sullivan county are sorely pressed with a heavy burden of indebtedness, and the tax payers find great difficulty in meeting their present obligations. It would be unjustifiable to increase their burdens by adding to the compensation of public officers. If the present officials are not satisfied with the compensation now provided by law they have an easy remedy in resigning; and there need be no apprehension lest their places be not readily filled by others competent and willing to discharge all duties pertaining to them.

ALONZO B. CORNELL.

VETO, SENATE BILL, NOT PRINTED, RELATIVE TO SITE FOR
AN ARMORY IN THE COUNTY OF KINGS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *March 29, 1881.* {

To the Senate:

Senate bill, not printed, entitled "An act relative to the site for an armory for the National Guard in the county of Kings," is herewith returned without approval.

The act of 1879, as amended by chapter 418 of the Laws of 1880, making an appropriation for the erection of an armory in Kings county, provides that no part thereof shall

be expended until an indisputable title to a suitable site for such armory, free from all encumbrances, shall be vested in the people of this State without cost to the State. This bill contemplates an evasion or non-fulfillment of the conditions originally specified, by permitting the armory to be erected upon land, the title to which may not be absolutely perfect ; in which case the county of Kings is required to refund to the State the sum expended.

In my opinion such contingency should not be anticipated. The first condition on which public buildings should be constructed, is absolute and undisputed title to the sites. If the county of Kings cannot comply with the terms of the appropriation made, then the armory ought not to be built.

ALONZO B. CORNELL.

SPECIAL MESSAGE TRANSMITTING PETITION FOR REMOVAL OF
HON. CHARLES F. SANFORD, A JUDGE OF THE SUPERIOR
COURT OF THE CITY OF NEW YORK.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, {
ALBANY, *March* 30, 1881. }

To the Senate :

A petition for the removal of the Hon. Charles F. Sanford, a judge of the Superior Court of the city of New York, is herewith transmitted for your consideration.

Such investigation as has been possible for me to make in regard to this case establishes the following conclusion : For more than two years Judge Sanford has been prostrated and mentally incapacitated, from overwork consequent on the laborious and faithful discharge of official duty ; and all hope of ultimate recovery seems now abandoned.

It is admitted by all that he was an upright and diligent judge while in active service : and no word of complaint was

ever uttered against him. He won distinction at the bar, and fully sustained the reputation thus acquired when on the bench. It is a matter of sincere regret, therefore, that the Constitution provides no remedy other than removal, in cases of this character. Believing, however, that Charles F. Sanford, Judge of the Superior Court of the city of New York, as aforesaid, is wholly and irrecoverably disabled by mental impairment, from the further discharge of duties devolving upon him, it is hereby recommended that the said Charles F. Sanford be removed from the office of Judge of the Superior Court of the city of New York before mentioned.

Inasmuch, also, as the application for removal is made for cause not involving moral delinquency, it is presumed, and it is hereby respectfully submitted, that in case removal be ordered, the Senate will recommend the continuance of compensation, as in such case provided by chapter 62 of the Laws of 1881.

ALONZO B. CORNELL.

VETO. ASSEMBLY BILL NO. 262, CONCERNING CHARITABLE,
BENEVOLENT AND BENEFICIARY ASSOCIATIONS, ETC.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, ()
ALBANY, *April* 7, 1881. ()

To the Assembly :

Assembly bill No, 262, entitled "An act concerning charitable, benevolent and beneficiary associations, societies and corporations," is herewith returned without approval.

This bill provides that associations and societies, whether voluntary or incorporated under the laws of this State or any other State or Territory, and doing what is known as a co-operative life insurance business, shall be exempt from the operations of the insurance laws, which require reports and authorize the Superintendent to investigate.

There is nothing in the insurance laws of New York that prevents the organization or incorporation of beneficial societies, such as Masonic, Odd Fellows, etc. ; a large number of which are now in undisturbed operation within the State. This bill does not give any more privileges to such institutions of this State than they now enjoy. Its only effect would be to admit hundreds of irresponsible organizations created under the laws of other States, with none of the features that popularize Masonic and Odd Fellow organizations, and render fairly certain the collection of assessments. A large majority of the co-operative companies transacting business in States other than where they were organized, are located in Pennsylvania and Ohio. Both of these States require this class of companies to report to the Insurance Department, yearly statements of their condition ; and give certain powers to the Insurance Superintendent to supervise their transactions. Yet it is sought by this act to allow them to come into the State of New York and transact an unlimited business, subject to no law of the State, and paying no tax or fee for the permission given.

There has lately been published a list of 126 of these institutions which have failed during the past five years. In Ohio a report was recently made by a Legislative committee, showing that from 1872 to 1880, ninety-six co-operative companies were organized, of which fifty-six failed. Of those remaining the income for 1879 was \$269,374, death losses \$178,703, and expenses \$135,685, making total disbursements of \$315,677 ; thus showing an excess of \$46,303 in expenditures over the receipts for the year. More than one-half the receipts was absorbed in expenses alone.

It is evident, therefore, that no good, but probably much harm, would result from the enactment of this bill into a statute.

ALONZO B. CORNELL.

ORDER TO SHERIFF OF PUTNAM COUNTY TO QUARANTINE
CERTAIN PREMISES TO PREVENT THE SPREAD OF PLEURO-
PNEUMONIA.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *April 9, 1881.* }

TO JAMES O. COLE, *Sheriff of the County of Putnam :*

It having been made known to me that an infectious and contagious disease known as pleuro-pneumonia has broken out in a herd of cattle owned by James A. Hayt, in the town of Patterson, county of Putnam, and kept and maintained on the premises of said Hayt in the town aforesaid ;

And it appearing that great danger exists lest the disease extend beyond the limits to which it is now confined,

Now, therefore, by virtue of the power vested in me by the laws of this State, it is hereby ordered that the premises above described be put immediately in quarantine : and that no cattle be allowed to enter upon, or be removed from the premises named during the continuance of the disease. And you are hereby directed to carry out and enforce this order.

ALONZO B. CORNELL.

By the Governor :

• HENRY E. ABELL,

Private Secretary.

VETO. SENATE BILL NO. 58. AUTHORIZING RETURN OF
CERTAIN CERTIFICATES OF DEPOSIT.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *April 11, 1881.* }

To the Senate :

Senate bill, No. 58, entitled "An act authorizing the Superintendent of Public Works to return certain certificates of deposit," is herewith returned without approval.

This bill proposes to authorize and direct the Superintendent of Public Works to return to F. C. Smith a certificate of deposit for one thousand dollars, deposited with the Board of Canal Commissioners in 1870 to secure the performance of a contract for certain canal work. The records of the Canal Department show that F. C. Smith contracted to build vertical wall of guard lock section at Black Rock and dredge out the mouth of mill-race at Lower Black Rock, to be completed on or before April 1, 1871. One of the conditions of the contract was, that the contractor should deposit one thousand dollars, which, in case of failure to perform the contract as agreed, was to be forfeited to the State.

At a meeting of the Board of Canal Commissioners, December 7, 1871, the following was unanimously adopted:

Whereas, J. Nelson Tubbs, resident engineer of the western division of this State, has certified to this Board that F. C. Smith, contractor for the construction of a vertical wall on guard-lock section at Black Rock, also for dredging out the mouth of mill race at Lower Black Rock to the mills of Thornton and others, has been repeatedly directed to prosecute said work in such manner as to ensure its completion, according to the terms and conditions of said contracts, and that said Smith has neglected and refused, and does neglect and refuse, to prosecute said work in such manner;

Therefore, Resolved that said contract be and the same is hereby declared abandoned in accordance with the provisions thereof in such cases made and provided for therein.

From the above evidence, it appears that the money in question was legally forfeited to the State and should long since have been covered into the treasury. There is no reason apparent to me why it should be refunded, as proposed in this bill.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 137, TO REIMBURSE JOHN CUNNINGHAM FOR COSTS AND COUNSEL FEES IN A CERTAIN ACTION.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *April* 11, 1881.)

To the Senate :

Senate bill No. 137, entitled "An act to authorize and direct the Board of Supervisors of Kings county to make suitable provisions to reimburse John Cunningham for all legitimate costs, counsel fees and expenses which were incurred by him in and about a certain action brought against him, while holding the office of Commissioner of Charities for the county of Kings," is herewith returned without approval.

To grant the relief sought by this bill, would establish an unfortunate precedent for others of similar import awaiting consideration, without regard to circumstances or particulars. Moreover, it does not seem right, either in principle or good policy, that the people should be further burdened with the expenses of every litigation in which public officers may be compelled to defend for acts alleged to have been done or omitted to be done in their official capacity : especially where the action is founded upon indictment. A public officer is amenable to the law for his acts, as well as a private citizen, and if he so deports himself as to be subjected to criminal or civil prosecution by inconsiderate or criminal conduct, the responsibility and consequences should rest with him.

If it be determined that the tax payers shall pay the counsel fees and court expenses in every law suit in which a public officer may become involved, much of that restraint which now deters, or prevents the exercise of doubtful or arbitrary authority, or the commission of absolute misconduct, will be so far removed as possibly to impair in many instances the integrity and efficiency of the public service. In the case in question, prosecution was made on indictment, and conviction

failed on technicalities. The other parties indicted with this claimant, were convicted. He escaped on points raised, chiefly technical in their character, but sufficient under rules of law to secure acquittal. No officer should put himself under suspicion by acts that warrant indictment ; but if his conduct be such as to provoke prosecution the same rule that applies to the private citizen who is compelled to pay his own expenses, should apply also to him. The people suffer enough from scandal and reproach arising from criminal investigations into the affairs of public officers, without having to pay the expenses of every accused.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 31, TO INCORPORATE GRAND LEGION OF
SELECT KNIGHTS OF ANCIENT ORDER OF UNITED WORKMEN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER.)
ALBANY, April 11, 1881.)

To the Senate :

Senate bill No. 31, entitled "An act to incorporate the Grand Legion of Select Knights of the Ancient Order of United Workmen," is herewith returned without approval.

The first section of the eighth article of the Constitution provides that "Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws." General laws have already been enacted for the incorporation of associations of the character proposed by this bill, which are believed to be adequate for all reasonable purposes. If their provisions are not satisfactory it is an easy matter to adopt such judicious amendments as may, in the wisdom of the Legislature, be deemed

appropriate. The rapid increase in the number of associations of this kind renders it important, in my opinion, to the interests of the people at large, that future organizations should be regulated by general and uniform statutes. The multiplication of such societies, similar in their objects and operations under diverse and varying provisions of law, must lead to confusion and trouble, if not litigation. The granting of special charters encourages increasing demands for similar legislation from different interests, whose incorporation, if desirable, has already been anticipated by general statutes. It seems clear, therefore, that due observance of Constitutional requirements, as well as sound policy, dictates the avoidance of special legislation, and it is my deliberate opinion that hereafter organizations of this character should be effected pursuant to general statutes.

ALONZO B. CORNELL.

LETTER TO THE GOVERNOR OF WEST VIRGINIA IN MATTER OF REQUISITION FOR THE SURRENDER OF PATRICK RYAN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. }
ALBANY, *April* 18, 1881. }

His Excellency JACOB B. JACKSON, *Governor of West Virginia* :

SIR: A requisition issued by your predecessor, Governor Matthews, and dated June 16, 1880, for the surrender of Patrick Ryan, alias Paddy Ryan, was duly received, and acted upon by me by the issuance of a warrant of arrest, under which, it is understood, the said Ryan was arrested and delivered to the agent appointed to receive him, from whom it is reported that the prisoner escaped.

A letter has been received from the Secretary of State of West Virginia, stating that the aforesaid requisition has been

revoked by your Excellency. Nothing, however, has been received from you, and the object of this communication is to inquire what is your pleasure in the matter.

Yours, very respectfully,
ALONZO B. CORNELL.

TO THE GOVERNOR OF NEW JERSEY, RELATING TO PUBLIC
HEALTH.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *April 20, 1881.* }

Governor :

Your attention is respectfully called to a memorial of the New York State Board of Health, of which the inclosed is a true copy, with reference to the injurious effect upon the residents of Staten Island, caused by certain nuisances located on the opposite shore, in the State of New Jersey.

It is hoped that the authorities of your State have the power to abate the nuisances complained of, and will feel disposed to exercise it, for the relief of our citizens who are suffering seriously from the noxious emanations produced.

Yours, very respectfully,
ALONZO B. CORNELL.

His Excellency, Governor LUDLOW, *Trenton, New Jersey.*

REVOCATION OF MANDATE FOR ARREST OF PATRICK RYAN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, — —, 1881. }

To all to whom these presents shall come, Greeting :

Whereas, A mandate was issued by me on the nineteenth day of June, 1880, on a requisition of the Governor of the

State of West Virginia for the arrest and delivery to James W. Sweeney, of one Patrick Ryan, alias "Paddy" Ryan, charged with feloniously fighting a prize fight with one Joseph Goss, alias "Joe" Goss, in the county of Brooke, in said State, and with having fled from the justice of said State and taken refuge in the State of New York ; and

Whereas, Notice of the revocation of said requisition has this day been received from the Governor of the State of West Virginia,

Now, therefore, I do hereby revoke, annul and supersede the aforesaid mandate.

Given under my hand and the Privy Seal of the State,
at the city of Albany, this twenty-first day of

[L. S.] April, 1881.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

SPECIAL MESSAGE TRANSMITTING REPORT OF STATE BOARD
OF HEALTH WITH REFERENCE TO CERTAIN NUISANCES IN
VICINITY OF NEW YORK AND BROOKLYN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, April 22, 1881. }

To the Legislature :

A special report of the State Board of Health, with reference to certain nuisances existing in the vicinity of New York and Brooklyn, which seriously affect the comfort and health of the residents of those cities, is herewith respectfully transmitted for the consideration of the Legislature.

It is a notorious fact that particular kinds of business, including the refining of petroleum, the utilization of animal offal, the manufacture of fertilizers and cream tartar, and the

storage of manures all conducted on a large scale in and near the metropolis, have been very offensive from the emanation of noxious vapors and stenches, which are denounced by the medical profession as the cause of many kinds of disease.

The recent investigations of a special committee of the State Board of Health warrant the belief that many of the offending causes may be easily removed; at least rendered much less nauseous and hurtful than heretofore.

This subject, involving as it does the health and well-being of nearly two millions of people, is worthy your serious attention, to the end that all necessary legislation may be secured to avert the danger now imminent.

ALONZO B. CORNELL.

PROCLAMATION FOR THE SUPPRESSION OF CERTAIN NUISANCES.

STATE OF NEW YORK,)
EXECUTIVE CHAMBER.)

PROCLAMATION.

Whereas, The State Board of Health having been required by me, pursuant to law, to inquire into certain alleged nuisances dangerous to life and detrimental to public health, existing as complained, in or about New York city; and the said State Board of Health having duly reported that such nuisances as alleged, do exist, and that they are produced by the neglect to control and properly convey away, or destroy, various offensive waste materials in the business of refining petroleum, the manufacture of superphosphate fertilizers, fat-rendering, bone-burning and like operations done and conducted near or upon Newtown creek, in the counties of Kings and Queens, Long Island, or thereabouts, to the detriment of the health and comfort of the inhabitants affected thereby.

Now, therefore, all persons, companies or corporations owning, superintending, managing, or in any manner engaged

in refining petroleum, and in the movement and storage of the products thereof, or who transport, keep or use the substance known as sludge acid; and whoever owns or manages any premises or apparatus used for mixing, manufacturing, or storing superphosphate, or phosphate fertilizers in which sludge or sulphuric acid is employed; and whoever owns, carries on or manages any works or apparatus for fat-rendering, bone-boiling, bone-burning, or other process for utilizing waste or putrid animal matters, or otherwise engages in the manufacture of ammonia, and its salts, or other products complained of and reported by the said Board of Health to be nuisances, against health, by this Proclamation issued in accordance with chapter 322 of the Laws of 1880, take notice, that it is hereby ordered, that the causes of the nuisances before mentioned and described be by each and all of them as it may belong, prevented, removed or abated on or before the first day of June, 1881, as connected with or produced by any premises or business controlled or managed by them in singular or several.

And in case of the neglect or failure so to do by the time herein specified, official action necessary for the speedy removal and prevention thereof will be taken in pursuance of law in such case made and provided, in the name of the people as for the removal, abatement or prevention of a nuisance against the public health.

Given under my hand and the Privy Seal of the State, at the Capitol, in the city of Albany, this twenty-
[L. s.] second day of April, in the year of our Lord one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor:

HENRY E. ABELL,

Private Secretary.

VETO, ASSEMBLY BILL NO. 111, ESCHEAT, RELEASING TO
MARTHA HARVEY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 2, 1881. }*To the Assembly :*

Assembly bill No. 111, entitled "An act to release the right, title and interest of the people of the State of New York in and to certain real estate in the town of New Rochelle, in the county of Westchester, and State of New York, to Martha Harvey," is hereby returned without approval.

The petition on which this bill is based is deemed insufficient to warrant the release of the interest of the people of the State of New York in the property described. The facts set forth show that the proposed beneficiary is entitled now to a life estate in the property; but whether or not she should receive further or absolute title depends on circumstances not made known in the papers. The release should not therefore be granted without full consideration of all facts in the case.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 244, ESCHEAT, RELEASING TO
ELBERT BALL AND EUGENE D. PORTER.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 2, 1881. }*To the Assembly :*

Assembly bill No. 244, entitled "An act to release the right, title and interest of the people of the State of New York in and to certain lands in Yates county to Elbert Ball Porter and Eugene D. Porter, heirs-at-law of Laura Ball Hoenig," is herewith returned without approval.

The papers accompanying the bill show that the premises

described were owned by John F. Hoenig, an alien, who died on Staten Island in 1877, without heirs; that he was married in 1859 to Laura Ball, who died in 1869. This bill proposes to release the interest of the people of the State of New York acquired by the death of Hoenig, to the two sons of the deceased wife's sister, who have no legal right of inheritance in the property whatever. It is claimed, however, in their behalf, that the property in question was conveyed by Hoenig to his wife before her death, but sufficient evidence of such conveyance is not furnished. It appears, therefore, that the parties named have not even an equitable claim for the release sought, which, in view of the facts stated, should not be granted.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 402, INCREASING THE SALARY OF THE
JUDGE AND SURROGATE OF SENECA COUNTY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, May 2, 1881, }

To the Assembly:

Assembly bill No. 402, entitled "An act to establish the compensation of the County Judge and Surrogate of Seneca county, pursuant to the fifteenth section of the amended sixth article of the Constitution," is herewith returned without approval.

This bill proposes to increase the salary of the County Judge and Surrogate of Seneca county from \$1,000 to \$1,500 per annum, and is in positive conflict with two separate provisions of the Constitution. Section eighteen of the third article provides that "the Legislature shall not pass a local or private bill * * * creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed." Section

twenty-four of the same article further declares that "the Legislature shall not, nor shall the Common Council of any city, nor any Board of Supervisors, grant any extra compensation to any public officer, servant, agent or contractor." These two constitutional safeguards were adopted by the people in 1874, and were intended to prohibit improvident and unstable action of the Legislature in relation to the compensation of public officers. Whatever circumstances may justify changes in the rate of official salaries, these must be made to take effect from the expiration of the pending term of service.

ALONZO B. CORNELL.

VETO. SENATE BILL NO. 38, ESCHEAT, RELEASING TO AUGUSTE
LOUISE HOHNHOLZ.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *May* 2, 1881.)

To the Senate :

Senate bill No. 38, entitled "An act to convey and release the right, title, property and interest of the people of the State of New York of, in and to a certain lot of land, with the buildings thereon and the appurtenances, situated on the northwest corner of Avenue A and Tenth street, in the Seventeenth ward of the city of New York, to Auguste Louise Hohnholz, of the city of New York," is herewith returned without approval.

This bill is not accompanied by any evidence of the propriety of its enactment. It proposes to release the interest of the people of the State in a property of considerable value, in the city of New York; and although effort has been made to obtain the papers on which the proposed release is based, they have not been forthcoming. It is therefore impossible for me to act with satisfactory understanding as to the merits of the

bill. Deeming it improper to allow such a bill to become a law without reasonable proofs of its fitness, nothing remains but to return it without my approval.

ALONZO B. CORNELL.

VETO. ASSEMBLY BILL NO. 141. FOR RELIEF OF THOMAS COTTMAN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 9, 1881. }

To the Assembly :

Assembly bill No. 141, entitled "An act regulating the proof of the claim of Thomas Cottman," is herewith returned without approval.

The object of this bill appears to be to deprive the city of New York of its defense in a suit now pending. It would not be considered right or proper to enact a law to take from a private suitor a material point of defense, and it does not seem just either that such discrimination should be made against a municipal corporation. A party who seeks remedy by suit at law should be willing to leave the determination of his case to the courts, and not seek legislative interposition in his behalf. If it shall become a precedent for the Legislature to interfere between litigants, there will sooner or later be little opportunity left for the consideration of legitimate business by legislation. The demands for special enactments for the relief of suitors will be likely to monopolize the entire session, to the exclusion of everything else.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 190, FOR CONSTRUCTION OF ADDITIONAL
PUBLIC BATH IN CITY OF NEW YORK.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, May 9, 1881. }*To the Assembly :*

Assembly bill No. 190, entitled "An act to provide for the construction and maintenance of an additional public bath in the city of New York," is herewith returned without approval.

This bill proposes to establish a public floating bath, to be located on the Hudson river, between One Hundred and Twenty-fifth and One Hundred and Thirty-fifth streets, in the city of New York, at a present expenditure of twelve thousand dollars. However desirable it may be to provide some suitable convenience for free bathing in the locality indicated, the amount named is altogether beyond reason. The population residing within the area to be accommodated at this point is not sufficient to justify it. These structures in the city of New York, temporary in their character and use, have heretofore been built in too costly a manner, and their maintenance has been alike extravagant. This bill not only provides an amount excessive for the purpose designed, but it creates an additional source of wasteful expenditure.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 196, TO CONFER ADDITIONAL POWERS
ON SPECIAL COUNTY JUDGE AND SURROGATE OF WASHINGTON
COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, May 9, 1881. }*To the Assembly :*

Assembly bill No. 196, entitled "An act to amend chapter one hundred and forty-eight of the Laws of eighteen hundred

and fifty-five, entitled 'An act to authorize the election of local officers to discharge the duties of County Judge and Surrogate in the county of Washington, and to do chamber business,''' is herewith returned without approval.

The purpose of this bill is to vest the special County Judge and the special Surrogate of Washington county with all of the powers and authority of a justice of the Supreme Court at Chambers, or out of court, in all civil and criminal proceedings, provided the officers named shall have attained the degree of Counsellor-at-law.

The jurisdiction of a justice of Supreme Court at Chambers embraces some of the most important functions of that office ; frequently involving *ex parte* disposition of matters of serious importance. It often happens that interests of greater magnitude are to be considered at Chambers than in court. Such authority should therefore only be lodged in safe and prudent hands.

The officers whom it is proposed to clothe with these extraordinary powers, are chosen as the alternatives of County Judges and Surrogates, in whose stead they act in case of disability or vacancy. It is seldom that persons are selected for these offices who have such standing at the bar or experience in their profession as would enable them to compete successfully for the position of Justice of the Supreme Court. It does not seem reasonable, therefore, that the Legislature should confer upon this class of judicial officers prerogatives of such grave importance.

In the case of the special Surrogate this bill is particularly objectionable, in that it proposes to confer upon that officer powers which the Surrogate himself does not possess.

ALONZO B. CORNELL.

PROCLAMATION FORBIDDING LOTTERIES.

STATE OF NEW YORK,)
EXECUTIVE CHAMBER. {

PROCLAMATION.

Whereas, The Constitution of this State and the statutes passed in pursuance thereof prohibit any lottery or the sale of lottery tickets within the State; and,

Whereas, It is thereby unlawful, and declared to be a misdemeanor, for any person or persons to conduct any lottery or policy game, by whatsoever name called, or in whatever manner devised, either as principal, agent, or otherwise; or to do any of the things that are or may be done in setting up or conducting a lottery or policy game; and,

Whereas, It is unlawful for any person to keep a room, building, tenement or other place, or knowingly to permit the same to be used or occupied, or for any owner, superintendent or agent of any room, building, tenement, or other place, to rent the same to be used or occupied for gambling, or selling, or vending lottery policies, or any writing, card, paper or document in numbers of any public or private lottery; and

Whereas, It is unlawful for any person or persons to make, advertise or publish any lottery or drawing thereof, or for any person or persons owning or conducting any newspaper or other publication issued in this State, to give notice of or advertise therein the sale of any lottery tickets, or the drawing of any lottery, located either within or without the State;

Now, therefore, it having come to my knowledge that the Constitution, and the laws passed in pursuance thereof, have been and are now being violated in respect to the matters and things hereinbefore mentioned, as against the dignity and government of the State, proclamation is hereby made warning all persons that are now or may hereafter be in any manner engaged therein as to the matters and things specified, or

relating to the same, to desist therefrom; and all district attorneys, and other officers charged with duties pertaining to the suppression of such illegal acts, and the punishment of those offending, are hereby directed and ordered to seek out, prosecute and punish according to law, every person who is found or may hereafter be found in any manner violating the laws relating to lotteries.

Done at the Capitol, in the city of Albany, this tenth day
[L. s.] of May, in the year of our Lord one thousand
eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor:

HENRY E. ABELL,
Private Secretary.

SPECIAL MESSAGE TRANSMITTING RESIGNATIONS OF ROSCOE
CONKLING AND THOMAS C. PLATT, AS U. S. SENATORS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER. }
ALBANY, May 16, 1881. {

To the Legislature:

Resignations vacating their seats in the United States Senate, as the representatives of the State of New York, have this day been received from the Honorable Roscoe Conkling and the Honorable Thomas C. Platt, which are hereby respectfully transmitted, together with a copy of a joint letter explaining the reasons for such action.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED, FOR REMOVAL OF A
BRIDGE OVER THE CHAMPLAIN CANAL AT COHOES.

STATE OF NEW YORK:

EXECUTIVE CHAMBER. }
ALBANY, May 16, 1881. {

To the Assembly:

Assembly bill, not printed, entitled "An act authorizing

the removal of a bridge over the Champlain canal, at the city Cohoes," is herewith returned without approval.

The bridge which this bill authorizes to be removed is a farm bridge, established and maintained for the accommodation of premises severed by the construction of the Champlain canal. Private parties now accommodated by its use object to the proposed removal, as it would deprive them of the facilities for crossing the canal to which they claim to be entitled. Another objection to the bill is that the removal of the bridge to the location contemplated will change it from a farm bridge to a city street bridge over which there will be very considerable traffic; and its future maintenance will be thus rendered far more expensive to the State than where now located. The necessity for a bridge at the proposed location is caused by the present and prospective development of Cohoes, for which that city, and not the State, should provide additional facilities.

ALONZO B. CORNELL.

VETO. ASSEMBLY BILL NO. 39, RELATIVE TO THE TOWN AUDITORS ACT. EXEMPTING THE COUNTIES OF CHEMUNG AND GREENE.

STATE OF NEW YORK:

EXECUTIVE CHAMBER. }
ALBANY, May 16, 1881. }

To the Assembly :

Assembly bill No. 39, entitled "An act to exempt the counties of Chemung and Greene from the provisions and operations of chapter 180 of the Laws of 1875, entitled 'An act creating a Board of Town Auditors in the several towns in this State, and to prescribe their powers and duties,'" is herewith returned without approval.

The legislation in reference to town auditors affords an apt

illustration of the facility with which the Session Laws are filled with unimportant enactments.

The office of town auditor was created by chapter 180 of the Laws of 1875. That law was amended once in 1877, twice in 1878 and three times in 1879; and in 1880 no less than four different amendments of the law were enacted. These several amendments have exempted thirty-seven counties from the operations of the law, and two bills now awaiting Executive action make exemptions in five other counties, thus leaving but eighteen counties subject to the law. It is manifest from this continual demand for exemption, that the creation of the office of town auditor has not accomplished beneficial results; and, judging the future by the past, it may be predicted that county after county will be exempted by special acts until the original statute is practically disposed of. It is, therefore, respectfully submitted that the Legislature should at once consider the propriety of repealing the law of 1875, and thus avoid the necessity of further trifling with this subject.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NO. 341, FOR THE REMOVAL OF
STABLE MANURE FROM CERTAIN PORTIONS OF NEW YORK
CITY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, May 16, 1881.

To the Assembly:

Assembly bill No. 341, entitled "An act to facilitate the removal of stable manure from the built-up portions of the city of New York," is herewith returned without approval.

By the provisions of this bill the Board of Health of the city of New York is authorized and directed to designate and set apart, on the east and west sides of the city, one or more

places north of Forty-second street for the temporary deposit of stable manure until it can be removed from the city at the least possible cost to citizens. The Board of Health already has abundant authority to do what the bill proposes, and which it has always refused to, in the interest of the public health. The members of the Board of Health vigorously protest against the enactment of a measure of this kind, declaring that horse manure stored in any considerable quantity in the warm months gives rise to the most intolerable stench, and makes the locality extremely unhealthy, endangering the lives of children particularly. Complaints are continually being made of foul odors and nuisances in and around the city of New York, and it would seem to be especially inappropriate to establish two or more nuisances in the city by legislative enactment, as would be inevitable under the operation of this bill, if it became a law.

ALONZO B. CORNELL.

VETO. SENATE BILL NO. 202. IN RELATION TO ULSTER AND
DELAWARE PLANKROAD COMPANY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, May 16, 1881.)

To the Senate :

Senate bill, printed number 202, entitled "An act in relation to the Ulster and Delaware Plankroad Company," is herewith returned without approval.

Particular cases are enumerated in the Constitution for which the Legislature shall not pass private or local bills. Section one, article eight, provides that "corporations may be formed under general laws, but shall not be created by special act except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corpo-

ration cannot be attained under general laws." It is plain that the object of this section is to secure greater uniformity and permanence in the exercise of corporate powers as well as to prevent the mischievous effects of special and local legislation.

The bill under consideration seems to come clearly within the prohibition cited. A general law regulating the formation and management of plankroad companies is now in force, and contains ample provisions for the objects sought to be accomplished by this bill, in a manner protective of all interests involved. The board of supervisors possesses authority to give consent by the proper vote to the extension of the corporate existence of the company named ; hence, to legalize its acts, assuming that these were done in pursuance of law, is wholly unnecessary. If, however, the board of supervisors did not proceed in conformity with law, then it is more than doubtful whether the Legislature has the right now to legalize acts which it cannot itself perform. The statutes provide, furthermore, that in addition to other conditions precedent, the consent of a majority of the stockholders of plankroad companies must first be obtained before their charters can be extended. This is manifestly a judicious requirement ; but it does not appear that such consent in this case has been secured. As a matter of good policy, therefore, the arbitrary renewal of the charter should not be permitted by special enactment.

The second section of the bill is especially objectionable. It is made lawful by the terms of the bill for the Ulster and Delaware Plankroad Company, its charter having been extended, to build a new or branch road ; and it marks out the general direction or route of the same. The general law already gives to companies organized under it sufficient authority to extend their roads or construct branches ; consequently to allow this company, by special act, to do that

which is already permitted, is not only superfluous legislation, but it is clearly repugnant to the Constitution. If, on the other hand, the Ulster and Delaware Plankroad Company, organized under the general law, has no right under its charter to build extensions or construct branch roads, then in that case, also, the Legislature would have no power to grant this corporation any special privilege or new right.

ALONZO B. CORNELL.

VETO, SENATE BILL NO 216, RELATIVE TO THE BANKERS'
LIFE INSURANCE AND TRUST COMPANY, OF NEW YORK.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 16, 1881. }

To the Senate :

Senate bill No. 216, entitled "An act to change the corporate title of the Bankers' Life Insurance and Trust Company, of New York, to the Bankers' Loan and Trust Company, of New York," is herewith returned without approval.

The Bankers' Life Insurance and Trust Company, of New York, was incorporated by special charter, chapter 687 of the Laws of 1870, with the powers of a life insurance company, and trust company, providing that its capital stock should be subscribed and twenty-five per cent thereof paid in within twelve months. By chapter 871 of the Laws of 1871 the time for the subscription and payment of the capital stock was extended one year, and chapter 459 of the Laws of 1872 extended the time for the subscription and payment of the capital stock one year more. Chapter 685 of the Laws of 1873 repealed so much of the charter as conferred upon the corporation the powers of an insurance company, leaving it simply a trust company, and allowing a further extension of one year, within which its capital stock should be subscribed and

paid in. The bill herewith transmitted describes the corporations as having been duly organized on the 23d day of April, 1874, but the Banking Department, to which it was required to report, has no knowledge of such an institution. Diligent inquiry among bankers, trust companies and commercial agencies in the city of New York has afforded no information as to the existence or operations of the company. It would seem that a corporation which has been so prolific of legislation should not be permitted to occupy additional space in the statutes of the State, at least until it shall have made for itself a local habitation and a name, by which it can, upon inquiry, be found. The failure to report to the Banking Department, as required by its charter, is another reason why the change of name should not be assented to at this time.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 72, RELATING TO HELL GATE
PILOTS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. }
ALBANY, *May* 17, 1881. }

To the Assembly :

Assembly bill No. 72, entitled "An act concerning the pilots of the channel of the East river, commonly called Hell Gate," is hereby returned without approval.

While it is desirable that some reasonable modification of the law regulating Hell Gate pilotage should be made, the present bill does not appear to be a satisfactory solution of the question. It makes a radical change in the system of pilotage by which the pilots who have spent many long years in qualifying themselves for this peculiar service, will be suddenly thrown out of employment. Many of the most competent of them have already reached an age when it will be

extremely difficult for them to engage in other business. If this change were made for the relief of commerce, the hardship to the pilots might perhaps be justified. Unfortunately, however, the terms of the bill seem to give the benefit of the change to the tug boats. A measure which shall relieve commerce of all unjust and unnecessary burdens will meet with prompt approval ; but simply to transfer the personal tax on commerce from the pilots to the tug boats is deemed unwise.

ALONZO B. CORNELL.

SPECIAL MESSAGE NOTIFYING LEGISLATURE OF VACANCIES
IN THE OFFICE OF UNITED STATES SENATORS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 19, 1881. }

To the Legislature :

The Legislature is hereby respectfully notified that the two Senatorial offices by which the State of New York is entitled to representation in the Congress of the United States, are now vacant by the resignations of the late incumbents.

ALONZO B. CORNELL.

VETO. ASSEMBLY BILL No. 601, FOR THE RELIEF OF
WILLIAM JUDEVINE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 23, 1881. }

To the Assembly :

Assembly bill No. 601, entitled "An act to legalize the acts of the electors of the town of Canandaigua, and to provide for carrying the same into effect," is herewith returned without approval.

The electors of the town of Canandaigua, at the regular

town meeting in March last, adopted a resolution to raise by tax the sum of \$1,008, for the purpose of reimbursing William Judevine for the loss of live stock destroyed by poison in July, 1880. It appears that Judevine was an excise commissioner, and it is supposed that his cattle were poisoned because he refused to grant licenses. No direct evidence has been obtained as to this allegation; nevertheless, it seems to be based on well-grounded suspicion. If this were an established fact, however, it would not create a liability of the town sufficient to justify reimbursement. In any view it could only be regarded as a misfortune, and the proposed compensation must, therefore, be considered as a public gratuity. Section 11 of the eighth article of the Constitution declares that "no county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation;" hence it is not competent for the town of Canandaigua to make such disposition of its funds as proposed, and the Legislature possesses no power to authorize a town to do what the Constitution prohibits.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 632, RELATIVE TO FLOATING
DOCKS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, {
ALBANY, *May* 25, 1881. }

To the Assembly:

Assembly bill No. 632, entitled "An act to amend chapter 365 of the Laws of 1875, entitled 'An act to extend the operation and effect of the act passed February 17th, 1848, entitled 'An act to authorize the formation of corporations for manu-

facturing, mining, mechanical and chemical purposes," is herewith returned without approval.

This is a proposition to authorize any "corporation heretofore organized under this act, owning or hereafter constructing and owning a floating dock, to use and operate the same, and to locate, moor or anchor such floating dock in or upon any of the waters of the State opposite to or in front of any public land, place or places not otherwise used or occupied for shipping or business purposes, and connecting the said floating dock with said land, place or places, by a suitable passageway or gangway for the safe passage of persons to and from said dock." The ostensible object of the bill is to provide an economical and convenient mode of landing passengers on the beaches of Long Island, now extensively patronized for summer excursions. Unfortunately, however, the authority is so broad as to admit of the mooring of a floating dock in front of public places in cities, as, for instance, the Battery, in the city of New York. It can hardly be supposed that the Legislature intended to grant such privileges.

ALONZO B. CORNELL.

TO HON. HENRY A. GILDERSLEEVE, A JUDGE OF THE COURT
OF GENERAL SESSIONS OF THE PEACE, OF NEW YORK
CITY, OF CHARGES PREFERRED AGAINST HIM.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *May* 28, 1881.)

SIR : A copy of charges, with specifications, preferred by
Andrew W. Vandewater, against you as a judge of the Court
of General Sessions of the peace, of the city of New York,
"for gross corruption in connection with the patronage of

that office," etc., is herein inclosed ; to which charges you are hereby directed to make answer within ten days hereof.

Very respectfully yours,

ALONZO B. CORNELL.

Honorable HENRY A. GILDERSLEEVE, *Judge of the Court of General Sessions, New York city, N. Y.*

VETO, ASSEMBLY BILL No. 97, RELATING TO FALSE IMPERSONATION OF POLICEMEN, ETC.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 30, 1881. }

To the Assembly :

Assembly bill No. 97, entitled "An act to prevent the false impersonation of policemen and other officers," is herewith returned without approval.

Laws fully adequate for the purpose of preventing the false impersonation of policemen and other officers, are now in force in this State, and the adoption of this measure would simply add to the number of statutes without, in any material degree, increasing their efficiency.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 110, RELATING TO OLEOMARGARINE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 30, 1881. }

To the Assembly :

Assembly bill No. 110, entitled "An act to amend chapter 439 of the Laws of 1880, entitled 'An act to amend chapter 415 of the Laws of 1877, entitled 'An act for the protection of

dairymen, and to prevent deception in sales of butter,''' is herewith returned without approval.

This bill is believed to be unconstitutional, for the reason that it attempts to interfere with and impair the right to make, use and vend an article for which letters patent have been issued by the United States. The Constitution gives to Congress the power to promote the progress of science and useful arts by securing, for limited times, to inventors, an exclusive right to their respective discoveries. Chapter 439 of the Laws of 1880, which the accompanying bill proposes to amend, provides that a certain article of commerce when offered for sale shall be stamped "Oleomargarine." This provision is in accordance with rights acquired by certain parties from the patent laws of the United States, for under such designation or name the patents issued; and as such it has a known commercial value. This bill proposes that the article shall be stamped "Imitation Butter" instead of Oleomargarine. It is claimed, and with apparent force, that the stamp of "Imitation Butter" would be injurious to the sale of the article thus protected by letters patent. It is obvious, therefore, that the effect of the proposed legislation would be derogatory to rights granted by laws made pursuant to the express provisions of the Constitution of the United States; and it is therefore wholly indefensible.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 314, RELATING TO MANUFACTURE
OF VINEGAR.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, May 30, 1881. }

To the Assembly:

Assembly bill No. 314, entitled "An act to regulate the

manufacture and sale of vinegar and to prevent the adulteration of the same." is herewith returned without approval.

The object sought to be attained under this bill is already abundantly provided for by the terms of chapter 407 of the Laws of 1881, entitled "An act to prevent the adulteration of food or drugs," which act may be readily referred to as Senate bill No. 317.

ALONZO B. CORNELL.

VETO: ASSEMBLY BILL NO. 378, FOR GRADING LORRAINE STREET, IN BROOKLYN.

STATE OF NEW YORK:

EXECUTIVE CHAMBER. {
ALBANY, May 20, 1881. }

To the Assembly:

Assembly bill No. 378, entitled "An act to provide for the grading of a certain portion of Lorraine street, in the city of Brooklyn," is herewith returned without approval.

This bill proposes to authorize and direct the Department of City Works immediately to grade Lorraine street, from Court to Dwight street, without reference to the interests or desires of the owners of property fronting upon the street. Representations on behalf of a majority of such owners have been made to me in opposition to the provisions of the bill, and it seems, therefore, proper to leave the subject for the disposition of the local government in accordance with existing laws with reference to street improvements. The circumstances in this case seem to make the requirements of this bill a peculiar hardship upon the owners of property fronting upon the street proposed to be improved, and no good reason has been offered to justify the enactment of the measure.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 47, TO PREVENT REMOVAL OF
ACTIONS BY FOREIGN INSURANCE COMPANIES TO CIRCUIT
COURT OF THE UNITED STATES.

STATE OF NEW YORK,

EXECUTIVE CHAMBER, }
ALBANY, *May* 31, 1881. }

To the Senate :

Senate bill No. 47, entitled "An act to prevent the removal of actions to the Circuit Court of the United States by foreign insurance companies," is herewith returned without approval.

This bill proposes to prohibit insurance companies of any nature, organized or existing under and by virtue of the laws of any State, territory or country whatever, other than by the laws of the State of New York, from transacting any business in this State, unless, before the 1st day of January next, they shall agree by a vote of their Boards of Directors, duly certified and filed in the Insurance Department in Albany, not to remove or petition to have removed, or in any manner procure or have removed to the Circuit Court of the United States, any action or proceeding which shall have been commenced in a court of this State.

Many objections can be urged against a proposition of this character, especially with reference to its application to insurance companies organized under the laws of other States, either now doing business in this State or that may hereafter apply for admission. The bill is proscriptive in its object, and calculated, if it become a law, to excite retaliatory legislation, to the injury of companies organized under the laws of New York and operating in other States. The reciprocal relations that now for the most part obtain, and which are desirable to be fostered, would be exposed to disruption; and compulsory submission to like exactions, or positive expulsion of home companies from other States, would inevitably follow; and thus lead to injurious consequences.

Numerous companies incorporated in other States have done business in New York for many years under no such agreement as that now proposed, and few instances are known, if, indeed, any can be recalled, where wrong has been done by resort, in litigated cases, to the Federal courts. To subject these corporations now, conditioned on remaining in the State, to a relinquishment of rights hitherto enjoyed, and which, in a possible emergency, might hereafter be imperilled, seems not only impolitic but likewise unjust.

But aside from the foregoing considerations, the bill may be regarded as an attempt, although futile, to divest the United States Courts of their established jurisdiction. If admitted that a condition precedent to transacting business in this State could be applied in the manner contemplated, it is quite certain, notwithstanding, that the removal of suits to a Federal tribunal could not be prevented, if litigants chose to avail themselves of rights guaranteed by the Constitution of the United States, and secured by Congress in pursuance of the Constitution. The attempt, therefore, to impose restrictions or limitations which have been pronounced repugnant to the supreme law of the land, is at variance with wise and beneficent government. If substantial justice can better be secured to any citizen by an appeal to the highest courts of the country, that way should never be closed by local legislative enactment threatening damage or loss to private interests. A corporation is a citizen of the State by which it is created, and can, therefore, sue and be sued in the Federal courts. No one would think of attempting to prevent a natural citizen from carrying his cause to the courts of the United States. The denial of that right to any, under whatever pretext, is subversive of equality of government and laws.

ALONZO B. CORNELL.

SPECIAL MESSAGE, RELATING TO ABANDONED CHEMUNG
CANAL.

STATE OF NEW YORK:

EXECUTIVE CHAMBER. }
ALBANY, *June 1, 1881.* }*To the Legislature :*

The attention of the Legislature is respectfully but earnestly called to the importance of providing for the prompt abatement of a nuisance emanating from the present condition of the abandoned Chemung canal and dangerous to the health and lives of people living in the immediate vicinity. The report of the State Board of Health, to whom the complaint of citizens was referred for investigation, is herewith transmitted, from which it will be seen that great suffering is now felt in consequence of the neglect of the State to provide suitable protection against the evils complained of. It is hereby recommended, therefore, that the Superintendent of Public Works be authorized to take the necessary steps to remedy the existing difficulty, and that suitable appropriation be made for that purpose.

ALONZO B. CORNELL.

NOTIFICATION OF CHARGES PREFERRED AGAINST EDWARD
MURPHY, JR., MAYOR OF THE CITY OF TROY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER. }
ALBANY. *June 1, 1881.* }

To Honorable EDWARD MURPHY, JR., *Mayor of the City of
Troy, Troy, N. Y.*

SIR: Herein find inclosed a copy of charges preferred by Elisha W. Hydorn, a citizen of the city of Troy, N. Y., against you as the mayor of said city, for malfeasance in the

office of such mayor; to which said charges you are hereby directed to make answer within ten days hereof.

Very respectfully yours,

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

VETO. CERTAIN ITEMS IN SENATE BILL. NO. 314, MAKING
APPROPRIATIONS FOR CANALS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 4, 1881.* }

To the Senate :

Herewith is respectfully transmitted a copy of statement of the items of appropriation to which it has seemed to be my duty to object, contained in Senate bill No. 314, entitled "An act making an appropriation to pay the expenses of the collection of tolls, superintendence, ordinary repairs and maintenance of the canals for the fiscal year commencing on the first day of October, eighteen hundred and eighty-one; and to provide for a contingent deficiency in the revenues of the canals for the fiscal years ending September thirty, eighteen hundred and eighty-one, and commencing October one, eighteen hundred and eighty-one," which statement was duly appended to the said bill at the time of approving it, pursuant to the provisions of the ninth section of the fourth article of the Constitution.

ALONZO B. CORNELL.

STATE OF NEW YORK,

EXECUTIVE CHAMBER, }
ALBANY, *June 4, 1881.* }

*Statement of items objected to and not approved, contained
in Senate bill No. 314, entitled "An act making an appro-*

priation to pay the expenses of the collection of tolls, superintendence, ordinary repairs and maintenance of canals for the fiscal year commencing on the first day of October, eighteen hundred and eighty-one; and to provide for a contingent deficiency in the revenues of the canal for the fiscal year ending September thirty, eighteen hundred and eighty-one, and commencing October one, eighteen hundred and eighty-one."

Each and every of the several items herein enumerated, contained in Senate bill No. 314, entitled "An act making an appropriation to pay the expenses of the collection of tolls, superintendence, ordinary repairs and maintenance of the canals for the fiscal year commencing on the first day of October, eighteen hundred and eighty-one; and to provide for a contingent deficiency in the revenues of the canals for the fiscal year ending September thirty, eighteen hundred and eighty-one, and commencing October one, eighteen hundred and eighty-one," are objected to and not approved, for reasons hereinafter stated.

For building an iron bridge across the Erie canal at Magnolia street, in the town of Geddes, in the county of Onondaga, to be built by the Superintendent of Public Works, out of the ordinary repair fund of the canals, the sum of ten thousand dollars, or so much thereof as may be necessary.

This item is objected to and not approved for the reason that it provides for the building of a bridge over the canal where no bridge has heretofore been located; hence it does not come within the limit of the constitutional authority of the Legislature to provide for "paying the expenses of the collection of tolls, superintendence and ordinary repairs" of the State canals. The Constitution is specific as to appropriations to be made out of the canal revenues after paying the expenses of collection, superintendence and ordinary repairs; and it is not competent for the Legislature to divert the revenues of the canals to the erection of new bridges or any other work of that character.

For the construction of a draw in the bridge over the navigable channel of the Oneida river at Brewerton, between the counties of Oswego and Onondaga, the sum of seven thousand five hundred dollars, payable out of any money in the treasury applicable to the payment of expenses of canals, and so much of the moneys appropriated by chapter three hundred and ninety-nine of the laws of eighteen hundred and seventy-four for the Oneida lake canal remaining unexpended, are hereby re-appropriated for rebuilding such draw, or so much thereof as may be necessary.

This item is objected to and not approved, for the reason that no appropriation was made by the law of 1874 for the Oneida Lake canal, and therefore the appropriation herein proposed would have to be paid out of the canal revenues, which should not be taxed for the object named.

For the construction of an iron bridge over the Champlain canal in the town of Fort Ann, in place of the present wooden structure known as Dewey's bridge, the sum of five thousand dollars, payable out of any moneys in the treasury applicable to the payment of canal expenses.

This item is objected to and not approved, for the reason that the Superintendent of Public Works is already authorized to provide for any repair or renewal of existing bridges, and no legislation is necessary for the purpose. A special appropriation can confer no further power upon him in the matter than is now possessed by him.

For the construction of a bridge over the Erie canal in Tonawanda, New York, at a point where Delaware street in Erie county and Main street in Niagara county intersect the canal, the sum of ten thousand dollars, payable out of any money in the treasury applicable to the payment of canal expenses.

This item is objected to and not approved, for the reasons first above stated. If circumstances are such as to make it proper for the State to provide for a bridge over the canal at a point where none has existed heretofore, the appropriation must of necessity be made from the general fund instead of the canal revenues.

For building an iron bridge across the Erie canal at Prospect street, in Medina, Orleans county; to be built by the Superintendent of Public Works, ten thousand dollars, or so much thereof as may be necessary, payable out of any money in the treasury applicable to the payment of canal expenses.

This item is objected to and not approved, for the reasons first above stated. The Constitutional restrictions as to the appropriation of canal revenues render the Legislature incom-

petent to provide for new improvements along the line of the canals.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 193, PROVIDING FOR A BRIDGE
ACROSS THE CHEMUNG RIVER.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *June 4, 1881.* }

To the Assembly:

Assembly bill No. 193, entitled "An act to provide for the building of an iron or suspension bridge across the Chemung river in the town of Big Flats, county of Chemung, and bonding said town and the town of Southport and the city of Elmira to pay for the construction thereof, and to charge said towns and city with the maintenance thereof," is herewith returned without approval.

The Constitution, as amended in 1874, provides that the Legislature shall not pass a private or local bill in any of several cases enumerated, and among others "providing for building bridges." The measure under consideration can only be regarded as a local bill, its object being to provide for the building of a bridge over the Chemung river in the town of Big Flats, at a point designated. It seems clear, therefore, that the bill is in direct and irreconcilable antagonism with the foregoing Constitutional prohibition.

ALONZO B. CORNELL.

ANSWER, IN THE MATTER OF AN ALTERNATIVE WRIT OF
MANDAMUS.

SUPREME COURT.

THE PEOPLE EX REL. R. G. GAF, CHARLES
FLEISCHMANN AND ALEXANDER FLEISCH-
MANN

against

ALONZO B. CORNELL, GOVERNOR OF THE
STATE OF NEW YORK.

Alonzo B. Cornell, the above-named defendant, for a return to the alternative writ of mandamus heret: annexed and to show cause against obeying the command of said writ, alleges :

1st. That the claim of the relators mentioned in said alternative writ of mandamus, and the vouchers therefor, were first presented to His Excellency Lucius Robinson, Governor of the State of New York, and were by said Governor Robinson duly considered and passed upon and disallowed and not approved.

2d. That afterwards this defendant being Governor of said State, an application was made to him on behalf of said relators for a re-consideration of said matter and a re-auditing of said claims and vouchers, which application for re-consideration was granted by the defendant, and such re-hearing thereof was duly had by this defendant as such Governor, and said claim with the vouchers therefor, were presented to this defendant for his approval and were duly and carefully examined and considered by this defendant, and after such examination and consideration thereof, and after hearing counsel in behalf of said claimants in relation thereto, this defendant, in the due exercise of his judgment and discretion in relation thereto as such Governor, determined and decided not to approve said claim or the vouchers therefor, and the same were thereupon by him rejected and not approved ; which was a final determination thereof and of all powers and duties devolving upon the defendant as such Governor in rela-

tion thereto, and no other or different determination, action or decision in relation thereto has at any time been made by this defendant.

3d. That said claim of the said relators and the vouchers therefor were so rejected and not approved by this defendant, as aforesaid, for the following reasons :

It appeared in such examination that said claim consisted mostly in the claimants' estimated rental value of the premises held in quarantine, such estimate of rental value being based upon the rent and income which had been derived from said premises when in a healthy condition, proper to be rented and used ; whereas at the time said premises were so placed in quarantine and during all of said period in which they were so held in quarantine, they were thoroughly infected with the disease of contagious pleuro-pneumonia, and could not have been rented and used for keeping cattle thereon without endangering the health and lives of such cattle and the spreading of such disease throughout the country, and whatever rental value said premises may have had when in a healthy condition, proper to be rented and used, had been and was substantially destroyed, for the time, by the existence of said disease thereon, and not by operation of law, nor by any order, proclamation or action of the Governor of this State, or the Sheriff of Queens county, or any other officer or person acting thereon or under or by his direction or authority, nor by the fact that such premises were so placed and held in quarantine, but, on the contrary, all of said acts and the placing and holding of said premises in quarantine were for the purpose of having the same renovated and removing said disease therefrom and restoring them to a fit and proper condition to be lawfully rented and used, all of which was done in obedience to and in accordance with the law of this State, and in a proper manner, and in the shortest time practicable, and at great expense to the State ; and to the manifest benefit

and improvement of said premises and of their rental value.

4th. The defendant denies that he has refused to audit or consider the said claim ; and alleges that he has audited and fully considered and determined upon and decided the same as above stated.

5th. That all and every act and thing in relation to said claim and the auditing and considering the same and the voucher therefor, which the law authorizes or requires to be done, by or on the part of the defendant, has been fully done, determined and completed, and it is respectfully alleged and submitted that no question or thing pertaining thereto remains undone or undetermined, over which the defendant, or the court, is required or authorized to exercise any jurisdiction or control.

All of which is respectfully submitted.

ALBANY, *May* 13, 1881. -

(Signed)

ALONZO B. CORNELL.

Entered *June* 4, 1881.

VETO, SENATE BILL NO. 398, FOR BUILDING A REFRESHMENT HOUSE IN CENTRAL PARK.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, *June* 6, 1881. }

To the Senate :

Senate bill No. 398, entitled "An act to authorize the erection of a building to be used as a refreshment house at Mount St. Vincent in the Central Park of the city of New York, and to provide the necessary means therefor," is herewith returned without approval.

This is a proposition to increase the public debt of the city of New York seventy-five thousand dollars, to erect a build-

ing in Central Park to be rented as a house of refreshment. The indebtedness of the city is already far too great, and should not be enlarged except for some meritorious and necessary object. Indeed, the future welfare of the city would be enhanced by the adoption of some arbitrary measure that would insure a certain, positive reduction of the debt each and every year until it be wholly extinguished. This, however, would of necessity be a slow and tedious process under the most favorable circumstances. The demand for increased water supply and other improvements which cannot be postponed, will largely impede the best plan that may be devised for reducing the debt; hence no expenditure should be allowed for any purpose not absolutely essential to the welfare and prosperity of the city.

A house of refreshment in Central Park cannot in any proper sense be regarded as indispensable. The number of people who frequented the house recently destroyed by fire was really insignificant in comparison with the whole number visiting the park. If rebuilt it would be for the pleasure of the few, and wholly in disregard of the interests of the many.

Private enterprise may safely be relied on to provide ample accommodations for the class of people who patronize such places, and it will be quite as much to the credit of the city that resorts of the character proposed be located outside of the park rather than within it.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 566, FOR THE PUBLICATION OF
THE REGISTRY OF VOTERS IN NEW YORK CITY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 6, 1881.* }

To the Assembly :

Assembly bill No. 566, entitled "An act to provide for the

publication of the registry of voters in the city and county of New York," is herewith returned without approval.

It is difficult to realize that any practical benefit would be secured by the passage of this measure commensurate with the expenditure necessarily involved. The publication of two hundred thousand names in one mass would make a cumbersome document, which could hardly be expected to secure a general circulation, and without which no material advantage would accrue. If greater publicity of the registry than is now provided be desirable, a better plan would be to publish the list of voters registered, by election districts, and furnish a copy to each elector whose name appeared therein. This would insure the widest circulation and be more likely to lead to the detection and exposure of illegal or erroneous registration. Such plan might necessitate a somewhat larger expense than the consolidated publication proposed by the bill, but its manifest advantages would certainly justify the increase, if any, were required. A very limited number of persons in each election district take the interest to examine the registry lists. Ample opportunity is already afforded them for all necessary scrutiny, and political committees can easily provide themselves with copies, which they are now generally accustomed to do. General publication would undoubtedly prove a convenience to these organizations, and relieve them from the expense of copying the lists. The same is true in regard to candidates, who may desire to address circulars or tickets to voters; but there can be no obligation on the part of the city to incur expense in behalf of these interests.

To mass the names of the electors of the entire city in a single publication would furnish great facilities for evil-disposed persons to plan and perpetrate fraudulent voting. With such a list in hand it would be an easy matter to select names for repeaters to go from one district to another, personating genuine voters.

It may be claimed that opportunity for such fraud already exists; but it must also be admitted the greater publicity would add largely to the evils which now menace the rights of citizens. The right of suffrage is justly prized as the safeguard of citizenship. Every possible protection of this right should be afforded, and all designs for its abuse should be sacredly guarded against. It is feared, however, that this bill would expose it to new dangers.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 93, IN RELATION TO MINING COMPANIES.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *June 7, 1881.*)

To the Assembly:

Assembly bill No. 93, entitled "An act in relation to mining companies," is herewith returned without approval.

It is proposed by this bill that every mining company, organized under the general law or any special law of this State, shall, every three months, make a detailed quarterly statement of its financial condition, showing its assets and liabilities and operations for the preceding quarter; such report to be made to the State Engineer, and published in a daily paper at Albany and a daily paper in the place where the office of the company or its agent is located, for at least one week immediately after filing the report.

This requirement seems to be extremely onerous, if not unnecessary. The general law provides that a report of the financial condition of these companies shall be made and published annually; and no good reason is apparent for requiring such a radical change from the present mode as the one now proposed.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 371, OF CERTAIN ITEMS IN THE
SUPPLY BILL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, June 7, 1881. }

To the Assembly :

A copy of the statement of the items of appropriation to which objections have been made, contained in Assembly bill No. 371, entitled "An act making appropriations for certain expenses of government, and supplying deficiencies in former appropriations," is herewith respectfully transmitted. The statement was duly appended to the said bill at the time of its approval, pursuant to the provisions of the ninth section of article four of the Constitution.

(Signed) ALONZO B. CORNELL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, June 7, 1881. }

Statement of items objected to and not approved, contained in Assembly bill No. 371, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations."

The several items herein enumerated contained in Assembly bill No. 371, entitled "An act making appropriations for certain expenses of government, and supplying deficiencies in former appropriations," are objected to and not approved, for reasons hereinafter stated.

For deficiency in appropriations for advances by the Comptroller to the clerks of the Senate and Assembly, for contingent expenses, eight thousand five hundred dollars, or so much thereof as may be necessary.

This item is objected to and not approved, for the reason that the Comptroller is of opinion that the existing appropriation is adequate for all necessary and proper demands upon it.

For removing a portion of the Senate library from the old to the new capitol, and the remaining portion thereof from the court of appeals chambers, including the documents and papers on file; for arranging and indexing the same, under the direction of the clerk of the Senate, and for preparing and removing to the executive chamber a portion of the library in the old capitol, for the use of the Governor, the sum of twelve hundred dollars, to be paid on the certificate of the clerk of the Senate to parties entitled thereto; and for removing from the old capitol the remainder of the books belonging to the Assembly library, and arranging the same, and for re-binding the books in the Assembly library now in a dilapidated condition, the sum of twelve hundred dollars, to be paid on the certificate of the clerk of the Assembly, and the work to be done under his direction.

This item is objected to and not approved for the reason that it proposes to authorize an expenditure wholly disproportionate to the value of the service provided for or necessary for the purpose.

For Charles H. Peck, for traveling and other expenses incurred by him in the discharge of his duties as State botanist, one hundred and two dollars and fifty-three cents.

This item is objected to and not approved, for the reason that adequate provision has already been made for the services required, and no obligation rests upon the State to pay expenses connected therewith.

For the purpose of protecting the public health, the Governor shall appoint a person whose duty it shall be to see that the provisions of chapter four hundred and fifteen of the Laws of eighteen hundred and seventy-seven, chapter four hundred and thirty-nine of the Laws of eighteen hundred and eighty, or any law amendatory thereof, are fully enforced, who shall receive an annual salary of three thousand dollars, to be paid in quarterly installments, and who shall hold his office during the term of the Governor making the appointment, and the sum of three thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, for the payment of said salary.

This item is objected to and not approved for the reason that the proposed expenditure is believed to be unnecessary. The State should not be expected to provide a special agent to see to the enforcement of each separate law. The courts have been established and are maintained for the purpose of punishing those who violate the laws, and they are believed to be fully adequate to protect public interests in this regard.

Of the appropriation for the Attorney-General the item which reads as follows: "For payment of the services, expenses and disbursements of counsel appointed on the retainer of the late Attorney-General Fairchild, to defend the late Auditor of the Canal Department in a suit brought against him on the relation of Orrin

W. Sage, eighteen hundred and six dollars and ten cents, or so much thereof as may be necessary ; and ”—

This item is objected to and not approved for the reason that the amount proposed is regarded as an extravagant and unreasonable allowance for the services and expenses in the case named.

For deficiency in the appropriations for the stenographers in the second judicial district, appointed under chapter seven hundred and sixty-five of the laws of eighteen hundred and sixty-eight, five hundred dollars, said amount to be paid only from money which shall have been or shall be paid into the treasury for taxes levied for the purposes of said act and in pursuance thereof.

This item is objected to and not approved for the reason that the law under which the stenographers were appointed was repealed in 1877, and no good reason is apparent why an appropriation to provide for a deficiency under the operations of that law should be necessary at this late date.

Of the appropriation for the Homœopathic Asylum for the Insane, at Middletown, the item which reads as follows: “ For grading grounds in rear of the same, for setting out shade trees, constructing roads and walks, and for paving, three thousand dollars.”

This item is objected to and not approved, for the reason that the State should not be taxed for elaborate pleasure grounds in connection with institutions of this character, and for the benefit of neighborhoods. While the embellishments suggested might add to the surroundings, there is no such necessity for them as to justify the expenditure proposed. The State should not be expected to lay out and maintain ornamental parks simply to gratify local pride.

Of the appropriation for the Willard Asylum for the Insane, the item which reads as follows: “ And for the erection of a building for storage, with hall in second story for assembly and recreation of patients, seven thousand dollars.”

This item is objected to and not approved, for the reason that it is not deemed an appropriate time for the commencement of new buildings for the use of the insane. Until the buildings now in progress shall be completed and fitted for use, the people should not be taxed for additional structures.

Of the appropriation for the Buffalo State Asylum for the Insane, the items which read as follows: “ For furnishing the several wards, nine thousand dollars; for furnishing the administration building, one thousand dollars; for washing-

machines, wringer, mangle, shafting, pulleys, hangers, and putting up the same, and fitting up washing and ironing rooms, two thousand dollars; and, "for bakery, nine hundred dollars."

These several items are objected to and not approved, for the reason that the objects named were expressly provided for by appropriation in 1879.

For the Society for the Reformation of Juvenile Delinquents, in the city of New York, for repairs of plumbing and sewerage system in the several departments and grounds of the institution, and for mason work connected therewith, pursuant to the direction of the Board of Health of the city of New York, eight thousand dollars, or so much thereof as may be necessary.

This item is objected to and not approved, for the reason that the State has already made generous provision for the institution in question, and should not be called upon for further contributions.

For deficiency in appropriations for the maintenance of convicts sentenced to penitentiaries, twenty-five thousand dollars.

This item is objected to and not approved, for the reason that ample provision has already been made in the regular appropriation bills to discharge all reasonable obligations of the State in respect to penitentiaries. There are now in these institutions, hundreds of prisoners who could be provided for in the State prisons without cost to the treasury.

It is not reasonable to expect the State to pay the penitentiaries for the keeping of convicts who can more than earn their own living, especially when the State is obliged to maintain prisons in which those confined would be a source of profit instead of expense.

For the Seamen's Retreat Hospital on Staten Island, for steam-heating apparatus, five thousand dollars; for reimbursing, in part, the hospital fund, for amounts expended therefrom, for interest, insurance, repairs and completion of buildings during the year eighteen hundred and eighty, six thousand dollars; for repairs to the cemetery, including iron fence, fifteen hundred dollars; for building a line fence around hospital property, two thousand five hundred dollars; for repairs of sewer and its extension below low-water mark, four hundred dollars, and for repairs and painting of hospital roof, six hundred dollars.

These several items are objected to and not approved, for the reason that before a larger investment be made in this property by the State, it is desirable that some definite policy

shall be determined upon in reference to the future support and management of the institution. The State has contributed \$60,000 to extinguish a mortgage on the property, on the representation that no further assistance would be required. Although the mortgage was fully paid last year, the State is now asked to contribute \$15,000 for the support of the hospital. No satisfactory reason has been given for this demand, which should not be granted without.

Of the appropriation for the city of Syracuse, the item which reads as follows: "Of the local assessment and expenses for paving on Salina street, in said city, in front of the Salt Springs office, in eighteen hundred and seventy-six, three hundred and eighty-two dollars and seventy-two cents, and "

This item is objected to and not approved, for the reason that the State should not be taxed for local assessments of this kind. The city of Syracuse is largely benefited by the use and maintenance of the property in question by the State, and there is no propriety or equity in charging it with a liability for such local improvement.

The item for sewerage is approved, for the reason that the State enjoyed a benefit from the improvement in the increased value of vacant property adjacent thereto.

For the construction of a retaining wall on the north and east side of the bridge across the canal on James street in the city of Rome, along the southerly line of Whitesboro street, the sum of five thousand dollars, or so much thereof as may be necessary. Said wall to be constructed under the direction of the Superintendent of Public Works, by contract or otherwise, as said Superintendent may elect.

This item is objected to and not approved, for the reason that it is not regarded as a legitimate object of expenditure by the State. If it be necessary at all, the city of Rome should bear the expense.

For James I. Hart, assistant sergeant-at-arms and postmaster of the Senate, for the expenses of the committee appointed by the clerk of the Senate to attend the funeral of Chauncy O. Abbott, late clerk of the committee on cities of the Senate, one hundred and seventy-five dollars, or so much thereof as may be necessary, payable on vouchers to be approved by the clerk of the Senate.

This item is objected to and not approved, for the reason that the object is not a proper one for public expenditure. The expense incurred was a voluntary one, and had no relation to official duty.

For the comptroller for the payment of work done for the State by order of legislative committees in the discharge of their duties as such committees, or by officers of the government in excess of the appropriations for such work which the board of audit has certified was done in good faith, and that the charges thereof are reasonable, the sum of four thousand three hundred and sixty-eight dollars and eighty-eight cents.

This item is objected to and not approved, for the reason that the State is neither legally nor equitably liable for the work claimed to have been done. So long as such irregularities are disregarded, and appropriations are made to meet them, the treasury will be taxed to unjust and unnecessary limits.

For repairing the roads on the Onondaga Indian reservation, the sum of one thousand dollars, to be expended under the supervision of Z. Lawrence Beebe, of the town of Onondaga, who is hereby appointed a commissioner for that purpose, who shall receive out of such sum three dollars per day for each full day occupied by him in the discharge of such duty, but for not exceeding fifteen days in the aggregate, and who shall execute to the people of this State a bond to be approved by the comptroller, for the faithful performance of his duties as such commissioner.

This item is objected to and not approved, for the reason that the roads in question should be repaired in the manner provided by the general laws relating to highways.

For the repair and rebuilding of the bridge across the Allegany river at Red House, Cattaraugus county, on the Allegany Indian reservation, four thousand dollars, or so much thereof as may be necessary, to be expended under the supervision of James Frink and Thomas Rosenberg, of Red House, and William H. Aldrich, of Randolph, in said county, who are hereby appointed commissioners for that purpose, who shall each receive out of said sum three dollars per day for each full day occupied in and about such supervision, but the total compensation of such commissioners shall not exceed the sum of three hundred dollars. Before entering upon the duties of their office the said commissioners shall execute to the people of this State a bond, to be approved by the comptroller, for the faithful execution of the duties herein imposed.

This item is objected to and not approved, for the reason that the bridge named should be repaired or rebuilt by the town or county in which it is located. There is no more reason why it should be kept up by the State than hundreds of other bridges. If this appropriation should be made it would become a precedent on which numerous other demands for local bridges would be presented for consideration.

For the town of Onondaga, Onondaga county, to re-imburse it for money expended in the repair of the bridge over Onondaga creek, on the Onondaga Indian reservation, in the Tully road, one hundred and eighty-five dollars and seventy-one cents.

This item is objected to and not approved, for the reason that the bridge in question should properly be maintained by either the town or county of Onondaga. If the town has any right to reimbursement in the premises, it lies against the county and not the State.

The unexpended balance of the appropriation of twenty-two thousand eight hundred dollars, made in chapter one hundred and ninety-three of the Laws of eighteen hundred and seventy-six, "to refund to contractors the amounts deposited by them in trust with the late treasurer in pursuance of chapter eight hundred and fifty of the Laws of eighteen hundred and seventy-two, and chapter seven hundred and sixty-six of the Laws of eighteen hundred and seventy-three, with such equitable interest as may be due thereon," being the sum of two thousand four hundred dollars, is hereby re-appropriated for the same purpose, and the further sum of eleven hundred and fifty-two dollars, or so much thereof as may be necessary, is hereby appropriated to pay such interest on such deposits as may be equitable.

This item is objected to and not approved, for the reason that the Canal Board in 1876 refused to recognize the claims for refunding the moneys in question, and nothing has occurred since to impeach the wisdom of that conclusion.

Of the appropriation for the commissioners of quarantine, the items which read, "for repair of rip-rap wall, roofs of buildings, steam pumps and plumbing on Hoffman Island, four thousand dollars," and "repair of docks and for dredging at upper boarding station, one thousand dollars."

These two items are objected to and not approved, for the reason that the appropriations for the quarantine establishment are deemed quite sufficient without them.

The corporation formed under and pursuant to the authority of chapter four hundred and ninety-two of the Laws of eighteen hundred and seventy, for the purpose of constructing warehouses, docks and wharves for quarantine purposes in the bay of New York, shall not be deemed dissolved if it shall commence its operation within two years from the passage of this act.

The item is objected to and not approved, for the reason that it is regarded as unwise and improper legislation to be inserted in an appropriation bill. If the corporation is to be revived it should be done on its own merits and in a separate bill.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 358, AUTHORIZING THE CONSTRUCTION OF A BRIDGE OVER THE ERIE CANAL AT ROCHESTER.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, {
ALBANY, *June 7. 1881.* }

To the Assembly :

Assembly bill No. 358, entitled "An act authorizing and empowering the common council of the city of Rochester to construct a lift, hoist or swing bridge over the Erie canal at Lyell street, in the city of Rochester," is herewith returned without approval.

This bill, as its title indicates, proposes to authorize the city of Rochester to construct a bridge over the Erie canal at a point named within that city ; and, being a local bill, it is therefore obnoxious to the eighteenth section of the third article of the Constitution. The object could probably be secured by an amendment to the city charter, or by a clause in some general bill relating to the Erie canal ; but, as an independent measure relating solely to the construction of the proposed bridge, it is difficult to see how the restriction of the Constitution is to be avoided.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED. REGULATING MANUFACTURE AND SALE OF OLEOMARGARINE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, {
ALBANY, *June 8, 1881.* }

To the Assembly :

Assembly bill, introductory number 699, entitled "An act to regulate the manufacture and sale of oleomargarine or any

form of imitation butter and lard, or any form of imitation cheese, for the prevention of fraud, and the better protection of the public health," is herewith returned without approval.

The object of this bill being so nearly identical with the one recently returned to the Assembly without approval, it has induced me to give very careful consideration to its provisions, with the desire, if possible, to avoid further difference with the Legislature on this subject.

Unfortunately, however, the inconsistencies of the measure are so glaring as to render it really more objectionable than the previous bill. By the first section the use of coloring matter in any article or substance in semblance of natural butter or cheese, not the legitimate product of the dairy, is prohibited, while the fourth section countenances and permits the use of coloring matter in natural butter and cheese.

If injurious to the public health, the State, in the exercise of its police powers, can undoubtedly prohibit the use of coloring substance in any article of food, but cannot and should not discriminate by preventing its use in one article and allowing it in another. There is no pretense, though, that the article prohibited is in any wise prejudicial to public health; and this is substantially acknowledged by the terms of the fourth section.

The third section, also, prohibits the use of coloring matter in oleomargarine and other articles, in direct violation of privileges granted under the patent laws of the United States. The specifications on which these patents were issued, provide definitely for the use of coloring matter, and unless it can be established that such use is detrimental to public health, the State has no power to prevent it.

The Constitution of the United States provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws." This guaranty of equal rights is one which every State in the Union must respect. It is designed

to prevent discriminating legislation as well as unjust and partial administration of law. If the use of coloring matter is in itself harmless the State has no power to say that certain manufacturers shall not use it while others may do so. If, on the other hand, it be deemed hurtful, then all should alike be prohibited from using it.

The advocates of this bill frankly acknowledge that the coloring matter is not deleterious to health, but claim that its use enables the manufacturers of certain unwholesome products to simulate natural butter and cheese, and thereby deceive consumers. If, to prevent imposition, this evil is sufficient to warrant legislation, then the remedy should be directed against the injurious or unhealthy ingredients, and not those admitted to be harmless.

The title of the bill has much significance when considered in connection with its terms and provisions. Besides other things, it proposes to "regulate the manufacture of oleomargarine" and provide for "the better protection of the public health." The only regulation the bill itself undertakes in regard to the manufacture of oleomargarine is to prohibit the use of coloring matter which is expressly authorized by a law of Congress. As for the better protection of the public health there is absolute silence. The promise of the title is broken or perverted by the provisions of the bill. Another misfortune of this measure is that it is an attempt under the guise of protecting public health to benefit one class of producers at the expense and injury of another. No material evidence has been produced to demonstrate that the public health is menaced by the use of what the bill proposes to prohibit, hence the absence of any reference to the public health in the body of the bill is not surprising. It seems to be a well-established fact that chemical science and business enterprise have combined to produce an article which competes largely with the poorer products of our dairies. Desirable as it is to afford

agricultural interests every possible advantage in such competition, the rights of other interests should not be ignored. We live in a land of law and liberty. Equal rights are guaranteed to all citizens. If their vocations be not dangerous or prejudicial to the public welfare, they cannot rightfully be restrained in the exercise of the largest liberty consistent with law and order.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 754, RELATING TO METROPOLITAN
TRANSIT COMPANY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. }
ALBANY, *June 8, 1881.* }

To the Assembly :

Assembly bill No. 754, entitled "An act supplementary to chapter eight hundred and thirty-three of the laws of eighteen hundred and seventy-two, relating to the Metropolitan Transit Company," is herewith returned without approval.

Special charters for city railways enacted prior to the amendment of the Constitution in 1874, so far as relates to their original routes, are free from the restrictions now imposed by the fundamental law of the State. All extensions of the routes as then fixed must be subject to the new Constitutional provisions. In this respect the present bill is at fault, inasmuch as it proposes to authorize a change in the location of two bridges over the Harlem river, to connect the same with the line of the company's road and with any railroad now or hereafter constructed.

Among the several enumerated powers which the Legislature is prohibited from exercising in a private or local bill, is that of "granting to any corporation, association or individual the right to lay down railroad tracks." This is a definite

and absolute bar to the privilege this bill proposes to confer upon the Metropolitan Transit Company.

Independent of any Constitutional obstacle, the unlimited license which the bill aims to grant in changing the location of the two bridges "to any point westerly of Eighth avenue," is especially objectionable. If the Harlem river divided a wilderness it might do to permit a railway corporation to make its own choice for its crossings, but, considering the present and probable future character of the locality in question, such an unrestricted privilege should not be granted.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 35, SHERIFF'S JURY IN THE CITY
AND COUNTY OF NEW YORK.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 10, 1881.* }

To the Assembly :

Assembly bill No. 35, entitled "An act to regulate the selection of the sheriff's jury in the city and county of New York," is herewith returned without approval.

The sheriff's jury in the county of New York consists of a large number of persons selected from the general list of jurors of the county, and exempted from all other jury duty. The authority to make this selection is now vested in a board of several members, that also selects the grand jurors of the county. Membership of the sheriff's jury is regarded highly desirable, and is much sought after because of the exemption it affords from the more onerous requirements of other juries; and also for the reason that the duties demanded are usually performed after business hours, thereby avoiding serious interference with the ordinary vocations of business men.

The transfer of the power of selecting the jury to the sheriff alone, as proposed by the accompanying bill, is open to serious objection, inasmuch as it would afford opportunities for favoritism, and possibly worse abuses. By all means the selection of jurors should be free from partisan influence, which could not always be expected if intrusted to the officer named. Sheriffs are generally very zealous and efficient members of political organizations; and they should not, therefore, be intrusted with duties of this character.

No good reason is apparent why the selection of the sheriff's jury should be taken from the authorities now charged with this duty. The board consists of the mayor, the presiding judges of Supreme, Superior and Common Pleas courts, the recorder and city judge, and this seems to be an appropriate composition of officials for the purpose designed. It is difficult to understand the motive of removing the power from a board thus constituted to a single officer, and especially to one so directly within the reach of political influence.

Aside from the foregoing considerations, a serious objection to the proposed change consists in the desirability of having the various jury lists selected in such manner as to insure in their composition a fair share of intelligence and respectability. The highest interests of the people are involved in the character of individuals who serve as jurors, and all danger of deterioration in this regard should be studiously avoided.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 465, TO SUPPLY WATER TO THE
CITY OF NEW YORK FROM LAKES AND RESERVOIRS IN THE
COUNTY OF PUTNAM.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *June 10, 1881.*)

To the Assembly :

Assembly bill No. 465, entitled "An act relating to the supplying the city and county of New York with pure and wholesome water in greater quantity, providing additional facilities for obtaining and storing the same, and also a uniform system in drawing off the same from reservoirs and lakes in Putnam county, and for the better protection of such reservoirs and lakes, and for the appointment of water inspectors to carry out the provisions of this act," is herewith returned without approval.

For the purpose of furnishing the vast and rapidly increasing population of the city of New York with pure and wholesome water, it has been necessary to seek a supply beyond the limits of the city. From the nature of local surroundings the most convenient, available, and indeed, only practicable source from which to obtain this great necessity, was the territory lying directly north of Mahattan Island.

Under legislation beginning in 1834, and supplemented by acts adopted at almost every session of the Legislature since that date, the Croton water establishment has been built up, until it has become one of the notable institutions of its kind in the whole world. With the continued growth of the city the Croton river proved inadequate to furnish the requisite amount of water, and an additional supply has thus been procured by utilizing a number of small lakes, in Putnam county.

The city has acquired in due legal form and now owns by virtue of grants, on ample compensation therefor, amounting to more than two hundred thousand dollars, all of the prop-

erty rights involved, and is entitled to the regulation and management of this great public work, so essential to the health and comfort of its citizens and the safety of their property.

The principal object of this bill appears to be to give to the county of Putnam, or rather to the clerk, sheriff and treasurer of the county, the right to appoint fifteen residents thereof, as inspectors of the several lakes belonging to the city of New York, who shall direct and regulate the flow of water from said lakes; all of whom are to be paid by the city of New York.

This appears to me a flagrant and unreasonable invasion of the rights and privileges of the city, which cannot be justified by any consideration of equity or propriety.

If the demand for this measure has its origin in any condition affecting the health of the neighborhood, an error has been committed in the remedy selected to secure relief. The State Board of Health is competent to afford all necessary aid in this regard. Until this authority, when appealed to, shall fail at least to secure proper alleviation on just cause of complaint, no application for legislation should be entertained.

The ninth section of the bill contains a remarkable provision, and one which is highly objectionable. Under special legislative authority the city has acquired ownership in the waters of several lakes, which by the terms of the section named is to terminate in 1886. The city has vested rights in these lakes which the Legislature has no power to abrogate. This section is believed to be directly in conflict with that provision of the Constitution of the United States which forbids a State from enacting any law impairing the obligation of contract.

While municipal corporations are subject to legislative control to almost unlimited extent, they yet have rights above

and beyond the reach of legislation. The possession of property legally acquired by a city is a right of which it cannot be deprived by legislative enactment.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED, FIXING COMPENSATION
OF KEEPERS OF CITY PRISON, NEW YORK CITY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 11, 1881.* }

To the Assembly :

Assembly bill, introductory number 1253, entitled "An act to fix the compensation of the keepers of the city prison in the city of New York," is herewith returned without approval.

The last Legislature earned the gratitude of the tax payers of the city of New York by enacting a law which, to a moderate extent at least, relieved them from a portion of the burden which has for many long years sorely oppressed them. That act was aimed principally at the salaries of the employes of the city government, and the severest criticism it merited was that it did not go far enough. The long suffering property owners were, however, thankful for the partial relief thus afforded, and encouraged by the hope that the Legislature was at last disposed to protect their interests.

The accompanying bill is a step in the wrong direction, and is therefore to be regretted. It proposes to confer upon the board of estimate and apportionment of the city of New York, authority to fix and determine the amount of the compensation of the keepers of the city prisons, at such rate as they may deem proper, not to exceed one thousand dollars per annum. The manifest object of the bill is to remove the present limitation to the salaries of these officials placed upon them by the act of last year.

The salaries as now fixed are quite sufficient to command abundant service, which meets the only consideration to be regarded. If the present employes are not satisfied, they are under no obligation to remain. Their places can be supplied so quickly that their absence will never be noticed. It is a notorious fact that the rate of compensation of city officials is far in excess of that paid by private employers for equal service, hence, if any change is to be made it should be in the line of reduction.

The importance of the question at issue does not, however, depend upon the magnitude of the bill under consideration. Its main point is that of a beginning, which, if encouraged, would be followed by like measures with no end. There is no middle ground to be found in questions of this character. When the rule of retrenchment is once broken it is impossible to find a stopping place. An exception in favor of one class of employes promotes discontent in many others, and to discriminate between them is obviously impracticable. The only safe rule is to hold resolutely to the advantage which has been gained in the direction of economy.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 276, FREEDOM OF WORSHIP TO
INMATES OF CERTAIN INSTITUTIONS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 11, 1881.* }

To the Senate :

Senate bill No. 276, entitled "An act to secure to inmates of institutions for the care of the poor, freedom of worship, and to provide for the visitation of such institutions for that purpose," is herewith returned without approval.

Even a casual examination of the provisions of this bill will

readily demonstrate, that while its objects may be correct in theory, it would be quite impracticable in its actual operation. Freedom of worship is guaranteed by the Constitution and is justly accepted as one of the most cherished rights of our citizenship. To be able to enjoy that freedom, however, presupposes certain conditions, important among which is the ability of independent or self maintenance. Charitable institutions must of necessity be managed in the outset with regard to economical support, and next with a view to proper discipline. Provision for religious worship must depend upon circumstances peculiar to each case. To expose the management of these institutions to the caprice or notion of any five citizens who may desire to interfere, perhaps from mischievous motives, would be to excite endless confusion, and render discipline almost impossible.

The inmates of such places are not brought together primarily for the purpose of religious instruction, but for either charitable support or correction. Few of them have had opportunities, if any disposition, for spiritual teaching; and they should not be subject to the rivalries of sectarian zealots. The simpler forms of religious observance would quite likely be as beneficial to these unfortunates as the most elaborate and demonstrative ceremony. The conflict of authority and teaching that would inevitably arise from the enactment of this measure could only lead to injurious results alike to the inmates and the institutions.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED, CORNELL HOSE COMPANY, KINGSTON.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 13, 1881.* }*To the Assembly :*

Assembly bill, not printed, entitled "An act to incorporate Cornell Hose Company number two of the city of Kingston, New York," is herewith returned without approval.

General laws now in force are available and fully equal to the purpose designed by this bill, hence its enactment would be a substantial disregard of the constitutional restriction upon local legislation.

The municipal authorities of the city of Kingston are invested with abundant power with reference to the organization, management and discipline of its fire department, and all separate organizations of which it is composed. If any of the several companies have need of individual incorporation for the purpose of acquiring, holding or conveying property, this can readily be accomplished under the general statutes. For all other purposes it is manifestly for the best interest of the city that every branch of the fire department should be directly subject to the municipal ordinances relating thereto.

A careful reading of the accompanying bill indicates a design of placing this particular company in an attitude substantially independent of the city authorities at other times than when in actual attendance at fires. If this be the object, it would inevitably lead, sooner or later, to insubordination and trouble. One of the most useful and important functions of municipal government is a well regulated fire department, and this can only be assured by wholesome discipline and harmonious co-operation of the entire organization.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 614, CONFERRING JURISDICTION
ON CANAL APPRAISERS IN TYRRELL CASE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, {
ALBANY, *June 13, 1881.* }*To the Assembly :*

Assembly bill No. 614 entitled "An act conferring jurisdiction on the Canal Appraisers to hear, determine and award to John and James Tyrrell the damages by them sustained by reason of the loss of their canal boat, carried out of the canal through a break in the tow-path of the Erie canal, the claim to which said damages has been heretofore examined by said appraisers, and rejected on the ground of a want of jurisdiction to make an award therein," is herewith returned without approval.

The title of this bill is a comprehensive statement of the object of the proposed enactment, from which it will be observed that it is designed to afford relief in a case where injury has resulted from the risks of canal navigation. The claim in question was filed in the office of the Canal Appraisers February 21, 1872, and heard by that board in 1876, when it was dismissed for want of jurisdiction. There is serious doubt whether this case is not now barred by the Constitution, as to the limit of time within which claims against the State shall be entertained.

The character of the claim is also a subject worthy of attention ; and it may well be questioned whether the State should be held liable for injuries of this description. Assuming it to be true that the loss occurred without the fault of those in charge of the boat, and wholly in consequence of the break in the canal, is it such damage as would properly render the State liable ? It would seem to be within the range of risks fairly covered by marine insurance. The State certainly cannot be regarded as an insurer. Boats navigate the canals subject to

all the hazards incident thereto, and abundant opportunities of immunity by marine insurance are within the reach of all who in prudence desire to take such precaution. It is no fault of the State if the owners of boats who fail to provide against disaster, suffer the penalty of their own neglect.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED, FOR IMPROVEMENT OF
JACKSON AVENUE, LONG ISLAND CITY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *June 14, 1881.*)

To the Assembly :

Assembly bill, not printed, entitled "An act to amend chapter five hundred and ninety-three of the Laws of eighteen hundred and eighty, entitled 'An act to improve Jackson avenue in Long Island City,' " is herewith returned without approval.

The act which this bill is intended to amend, was enacted last year, and provides for the improvement of Jackson avenue in Long Island City, at a cost not exceeding eighteen thousand dollars, to be paid by local assessments upon property situated within three hundred feet on each side of said avenue within the limits of the proposed improvement.

That portion of Jackson avenue embraced within the improvement district thus established is located beyond the built-up section of the city. The property fronting on this part of the avenue is largely occupied for agricultural purposes, and is not now, nor is it likely very soon to be, in demand for building. The avenue, which is one of the principal thoroughfares between the towns of Queens county and

the New York ferries, is admitted to be in bad condition, and sadly needs improvement.

The present bill enlarges the limit of the improvement district somewhat, and increases the limit of expenditure from eighteen thousand to eighty thousand dollars. A large majority, and probably two-thirds of the owners of property fronting the avenue oppose this measure, protesting that it will be substantially destructive of the value of their property. They claim that practical confiscation of their interests will result from it; that no benefit would accrue to them for many years to come, if ever. They contend that the improvement is really for the gain or advantage of interests which will contribute nothing toward paying for it. It is further represented in behalf of the remonstrants that their present burden of taxation is extremely onerous and far in excess of all revenue to be derived from the property liable to taxation. Assuming these representations to be worthy of credit, the adoption of the present measure would seem to be quite unwarranted. The city charter provides for local improvements upon the petition of the owners of lands to be affected thereby, and the Legislature should carefully discriminate as to local rights when called upon to interfere in such cases.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 579, FOR THE RELIEF OF PETER
KEHR AND OTHERS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. {
ALBANY, *June 14, 1881.* }

To the Assembly :

Assembly bill No. 579, entitled "An act for the relief of Peter Kehr, John A. Kellner and Louis Ott," is herewith returned without approval.

The claim for which this bill proposes to provide is one that the charter of the city of New York renders void and non-collectible. That instrument wisely provides that "no member of the common council, head of a department, etc., shall be directly or indirectly interested in any contract work or business, or the sale of any article to be paid for from the city treasury." All such contracts in which any such person is or becomes interested shall, at the option of the comptroller, be forfeited and void. A member of the firm which is alleged to have furnished certain office furniture for the use of the fire department, in 1873, was at the time an alderman, and as such was a member of the common council. By virtue of authority vested in the comptroller by the charter, that officer refused to pay for the articles in question, and remedy is now sought to relieve the claimants from this disability.

There can be no doubt of the propriety and necessity of a provision of this character to protect the city from collusion and wrong. If the city officials were at liberty to furnish their own supplies, there would be opportunities for favoritism and corruption without end. It is only necessary to state this proposition in order to realize its force and entire correctness. Why, then, should an exception be made in the present instance?

If the Legislature intervene to condone an offense of this description, it discredits the law under which the penalty was incurred, and tempts others to disregard its wholesome warning. Aside from the objection advanced, it would be dangerous to vitalize this claim, as a precedent would thus be established for other and more flagrant ones. If the city treasury be opened for the payment of these claimants, who can calculate the amount that would follow in satisfaction of other even more objectionable demands?

The Constitution provides that neither the Legislature nor other authority acting in behalf of the State, shall audit, allow,

or pay any claim which, as between citizens of the State, would be barred by lapse of time. It is respectfully submitted that the Legislature should hesitate to legalize a claim against a city, which, were it made against the State, would be barred by the Constitution. The transaction on which the claim is based having occurred in 1873 it would seem contrary to the spirit if not strict letter of the constitutional limit quoted.

ALONZO B. CORNELL.

SPECIAL MESSAGE RECOMMENDING A COMMISSION ON MAT-
TERS PERTAINING TO THE WAR OF 1812.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *July* 14, 1881. }

To the Legislature:

Information received by me in a recent conference with an officer of the United States Government in regard to the relations of this State with the United States, in matters pertaining to the conduct of the War of 1812, warrants the belief that the interests of this State require early attention by a duly authorized commission, with power to take such action as shall be deemed best, and as shall protect the rights and privileges of the State of New York. The questions involved are of such importance that the Legislature is recommended to appoint a commission as above suggested, in order that early attention may be given to the subject presented; and it is also recommended that a moderate appropriation be made to carry out the object in view.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL 711, RELATING TO DUTIES AND FEES
OF THE CLERK OF ALBANY COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 16, 1881.* }*To the Assembly :*

Assembly bill No. 711, entitled "An act relating to the duties and fees of the clerk of Albany county, as county clerk and as clerk of the courts of records of said county," is herewith returned without approval.

Among the wisest provisions of the Constitution are those contained in the amendments adopted in 1874, restricting legislative power with reference to local affairs. One of these embraced in section eighteen of article three, declares that "the Legislature shall not pass a private or local bill * * * creating, increasing or decreasing fees, percentages or allowances of public officers, during the terms for which said officers are elected or appointed." The accompanying bill is directly and irreconcilably in conflict with this provision, both in general and in detail. Almost every section of the bill comes within the constitutional prohibition.

In other respects also, the bill is objectionable ; particularly so in providing that in many cases, where fees—now to be paid by parties interested—are made a county charge ; and the board of supervisors is required to audit and allow them in the same manner as other county charges. Certain duties which now devolve upon the assessors of the city of Albany for which they are compensated by the city, are by the second section of this bill, transferred to the county clerk, for which he is permitted to make a charge against the county.

Besides largely increasing the rate of fees now allowed by law to the county clerk, the bill creates new fees for duties which existing laws now require him to perform without compensation ; and in addition to all this it provides for the

payment to him of a salary of twelve hundred and fifty dollars per annum for attendance in person, or by deputy, upon the several courts to be held within said county.

Even if the bill were not repugnant to the Constitution, under what pretense it can be justified is quite beyond comprehension. The office of County Clerk in nearly every county is known to be provided with very generous emoluments by the general laws. In the most populous counties, indeed, the proceeds of the office are now believed to be too large. It seems pertinent to inquire, therefore, why an official already rewarded beyond reasonable limit, should be favored by special legislation of this character.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 726, FOR THE RELIEF OF
PATRICK DUFF, ADMINISTRATOR OF FRANCIS H. DUFF.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. }
ALBANY, *June* 16, 1881. }

To the Assembly :

Assembly bill No. 726, entitled "An act to provide for the payment by the city of Brooklyn to Patrick Duff, administrator of Francis H. Duff, the balance due on a contract with said city for grading and paving Sackett street," is herewith returned without approval.

It is attempted by this bill to establish as a liability against the city of Brooklyn a claim of three thousand nine hundred and seventy-five dollars, with interest from March 4, 1870. Without pausing to inquire of the merits upon which the claim is based, the fact that the claimant failed to enforce its collection within the limit of time during which an action

could have been maintained against the city, is quite enough to cloud it with suspicion.

The Legislature is expressly prohibited from recognizing any claim against the State, which, as between citizens of the State, would be barred by the lapse of time. What possible justification can there be for legalizing a claim against the city of Brooklyn which, if made under like circumstances against the State, could not be maintained ?

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, No. 278, PENSIONING PUBLIC SCHOOL
TEACHERS IN NEW YORK AND BROOKLYN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, June 20, 1881. }

To the Assembly :

Assembly bill No. 278, entitled "An act to authorize the retirement of teachers in the public schools of New York and Brooklyn," is herewith returned without approval.

Grave questions of public policy are involved in the provisions of this bill. The proposition to create a class of pensioners to be permanently maintained by general taxation is too important to be accepted on mere sentiment. A system like the one proposed could only be justified on the ground that the class to be thus favored had rendered service to the public of exceptional value, or that the vocation pursued was especially hazardous. Can it be demonstrated that either of these alternative conditions arise in the case of public school teachers ?

Provision is made for retiring army officers who, after forty years of continuous service, attain the age of sixty-two ; and

soldiers are pensioned on account of disability incurred in active service. Policemen and firemen whose duties expose them to extraordinary perils, both to health and life, are also frequently rewarded with pensions. It cannot be fairly claimed that the occupation of school teachers is in any proper sense injurious to either health or life. On the contrary, with due care and prudence, their calling is far more safe than many others that might be enumerated.

Teaching is a creditable and meritorious pursuit, and one of great usefulness, but it does not involve either personal sacrifice or undivided devotion to the public welfare ; nor does it require greater ability or preparation than the other professions of life. While the service is exacting and requires constant attention to duty, it is neither arduous nor exhausting. The compensation as a rule is fairly remunerative, and competent talent commands ready employment.

Turning from the general question of the propriety of establishing a system of the character indicated, the particular features of this measure invoke careful consideration. Teachers employed for an aggregate period of twenty-five years, or, if disabled by illness or accident occasioned in the performance of duty, after fifteen years' service, can apply to be retired, and the board of education of New York or Brooklyn, by a two-thirds vote, may retire them. Any teacher so retired shall thereafter be entitled to an annual allowance, to be fixed by the board of education at the time of retirement, which shall not be less than one-half the salary received by such teacher when so retired. The pension is, therefore, to be at least one-half, and may be any higher rate up to full pay; and this, too, presumably for life.

The bare statement of these premises is sufficient to demonstrate their remarkable character. Teachers usually begin their duties in early life ; probably not above twenty years of age on an average. If continued in unbroken employment

the privilege of retiring would be reached at the age of forty-five. At this time advantage might be taken of the provision for retirement, and having secured the right allowed, the pensioner could seek other and possibly more lucrative employment than that of teaching. Other suggestions will readily occur how in many ways the system would be exposed to an unreasonable and improper advantage, which could be almost indefinitely stated.

Assuming that a pension system may be adopted, several features of this bill should be revised and corrected. Continuous instead of aggregate service, ought to be a condition precedent. The action of the Board of Education should also be subject to review by the Mayor. The rate of pension should be half pay or less instead of more, and be subject to the action of the Board of Education from year to year.

Another consideration presents itself in connection with this measure which cannot be readily solved. Would it really benefit the teachers as a class to offer this especial inducement for them to remain contented in that vocation? Will it not take away from them much of the ambition to improve their condition and qualify themselves to seek other and more profitable duties? Teaching is frequently made a most useful preparation for other pursuits, and it may well be questioned whether the inducements are not now great enough to the younger members of the profession to adopt it permanently.

At all events, no harm can result from a postponement of the question for another year. If more mature consideration of the subject shall approve it as a wise policy, a measure can then be perfected and enacted with such safeguards as more deliberate consideration shall suggest. Once created, the pension system will with difficulty be restrained, if it could ever be abolished. If it is to be ordained and established it should be by the enactment of a careful and well matured law.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 535, IN REGARD TO CERTAIN OFFICERS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER.
ALBANY, *June 21, 1881.* }*To the Assembly :*

Assembly bill No. 535, entitled "An act to amend chapter three hundred and forty-one of the laws of eighteen hundred and sixty-four, entitled 'An act in regard to certain officers in the several counties of this State,' " is herewith returned without approval.

There is apparently no reason to doubt that a good object was intended to be secured by this bill, but unfortunately the amendment introduces a subject which is not strictly pertinent to the act amended. Its effect would be, therefore, to throw the whole subject into confusion. The present usefulness of the old law would be impaired, if not destroyed, while the new one would be of very doubtful utility, if not absolutely injurious in material respects.

The act of 1863 relates to, and was intended to secure complete accountability from officers in the several counties receiving money on account of any fine or penalty, or other matter of similar character. It provides that a report, under oath, giving certain particulars as to the receipt of such money, shall be made every year in the month of November, to the board of supervisors, and filed with the clerk of the board on or before the fifth day of November. Each officer who shall have received such moneys is required within ninety days after receiving the same, to pay it over to the county treasurer. The second section, however, expressly provides that the act shall not apply to moneys received by any town or city officer in his official capacity specially appropriated to any town or city purpose.

The present bill amends the first section of the act referred

to, and includes in addition to the officers named therein, every officer "who shall make or is authorized by law to make any purchases for, or draw upon the county treasurer for, or pay out any money for any purpose whatsoever for or on account of the county, town or city in which he is any such officer." If the bill became a law the result would be that the first section would include a large class of officers as to whom the second section of the act, thus amended, declares shall be exempt from the operations of the act. Which of these two antagonistic sections is to prevail and have effect it is quite impossible to determine.

The real difficulty about the proposed amendment, however, consists in the attempt in one law to regulate two classes of officers, whose duties are not similar. Those to whom the original act applies are officers who collect certain public revenues, including fines, penalties, etc., while the amendment deals with persons who are really disbursing officers, and have to do with the direction of public expenditures. The duties of the two classes of officials are wholly different and must almost of necessity be provided for in separate acts; in such manner at least as will avoid conflict and inconsistency.

Confusion would also be caused under the operation of the amendment in the financial affairs of many of the cities. The accompanying bill has evidently been drafted with sole reference to the conduct of the affairs of rural counties, while by its terms it is made applicable to every city, town and village in the State. To amend the bill so as to exclude the cities from its operation will have the effect of exempting them from the operation of the present law, which ought not to be done, as it would relieve a large number of officials from the salutary restraint of a useful law.

The only safe course, therefore, appears to be to disapprove this bill; although, as stated in the beginning, its manifest object is to accomplish beneficial results. It is to be regretted

that the bill was not more carefully drawn ; and either presented as a new and independent measure or adopted as an amendment of the existing statute where its incorporation would have been appropriate and desirable.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 569, RELATING TO STREETS IN
LONG ISLAND CITY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, June 21, 1881. }

To the Assembly :

Assembly bill No. 569, entitled “ An act to amend chapter four hundred and twenty-four of the laws of eighteen hundred and seventy-six, entitled ‘ An act in relation to streets in Long Island City,’ ” is herewith returned without approval.

This is a proposition to close that portion of Ninth street, in Long Island City, which makes direct connection with the East river. Portions of Third and Fifth streets have heretofore been closed by legislative action, thereby materially reducing the opportunity and convenience of access to the water frontage of the city. This section of the city is principally occupied for commercial purposes, and care should be taken lest the public welfare be jeopardized by closing streets which are necessary for common use.

Citizens have expressed earnest opposition to the provisions of the bill; and the common council, by unanimous vote, condemns it as unwise and detrimental to the interests of the city. It can hardly be doubted that the members of the common council, being familiar with the locality in question, as well as with all the circumstances connected therewith, are better qualified to form an intelligent judgment on the subject than the Legislature can be.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 661, AMENDING THE GAME LAWS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 22*, 1881. }

To the Assembly :

Assembly bill No. 661, entitled “An act to further amend chapter five hundred and thirty-four of the Laws of eighteen hundred and seventy-nine, entitled ‘An act for the preservation of moose, wild deer, birds, fish and other game,’ as amended by chapter five hundred and thirty-one of the Laws of eighteen hundred and eighty,” is herewith returned without approval.

The Constitution provides that “excessive bail shall not be required, nor excessive fines imposed, nor shall cruel and unusual punishment be inflicted, nor shall witnesses be unreasonably detained.” Manifestly the object of this provision is to guard and protect the weak and unfortunate from oppression, either in the enactment or execution of laws ; and it should be quite as binding upon the Legislature in the exercise of its peculiar prerogative as upon the magistrate or subordinate officer who is charged with the duty of enforcing the statutes.

In the progress of legislation with reference to the protection of game and fish, there has been a constant tendency to antagonize this beneficent provision of the Constitution. From year to year penalties have been made more and more severe ; and offenses have been largely increased in variety and number. Each successive Legislature has amended the laws on the subject so that it has become next to impossible for the people to understand what is permitted or forbidden. Instead of just and stable laws that would command respect and obedience, we have confusion and uncertainty, with constant risk of offending on the part of those ever so well disposed.

Some of the provisions of the accompanying bill are obviously cruel and unusual, and in this regard must be deemed obnoxious to the constitutional restriction referred to. For instance, the penalty for shooting a wild fowl from any steam or sail vessel, as prescribed by the existing law, is ten dollars, while this bill increases it to fifty dollars. This change cannot be justified as reasonable or in any degree consistent with the character of the offense named. Again, in the amended thirty-third section, this bill provides that "no person imprisoned on execution under this act shall be bailed or admitted to the liberties of the jail." No sane person will attempt to deny that this provision is both cruel and extraordinary, nor will it be claimed that it is in any sense necessary for a proper and efficient execution of the law.

The amendment proposed to the thirty-fifth section provides that "courts of special sessions in towns and villages, and the several courts in cities situated in the county in which the offense was committed, or in any adjoining county having jurisdiction to try misdemeanors in their own county, shall have jurisdiction to try offenders in all cases occurring under this act;" and "it shall be the duty of every sheriff, under sheriff, deputy sheriff, policeman, constable, etc., to arrest wherever found within this State, without warrant or process, any person whom they shall find violating any of the provisions of this act, *and immediately to bring such offender before any magistrate residing in the county in which the offense was committed, or in any adjoining county, for examination and trial.*" Thus the jurisdiction of the most inferior courts is extended over several counties, and officers are authorized to convey offenders wherever they please within the limits of any adjoining county. Comment is hardly necessary to illustrate the imprudence and inconsistency of such a proposition.

When an offense is committed against the person or prop-

erty, either in the nature of a misdemeanor or a felony, it is the duty of the officer making arrest to take the offender before the nearest magistrate for examination. Thus, however grave the crime committed, whether it be murder, burglary or robbery, the offender must be taken before the nearest magistrate; while if the offense be simply catching a fish or shooting a bird out of season, the offender may be taken before any magistrate in, perhaps, any one of a half-dozen counties, for examination or trial. The case in this respect is one of pleasure or prejudice on the part of the officer making the arrest.

This remarkable provision is also antagonistic to the Constitution of the United States, which guarantees to every person charged with crime "the right to a speedy and public trial by an impartial jury of the State and *district* wherein the crime shall have been committed, which district shall have been previously ascertained by law." The only application of this guaranty that seems reasonably consistent, is that the offender under the game law shall be tried as in all other cases, by the nearest court having jurisdiction. To extend the jurisdiction in the manner proposed is wholly inconsistent with rational theory.

Fishing and hunting were among the first pursuits and privileges enjoyed by our forefathers in the early occupation of this country. No interests of community especially vital in character require that these privileges should be restrained; but with the advance of civilization a sentiment has found expression in the enactment of laws extremely rigid and restrictive. Infractions of the game laws are not such serious offenses against the peace and welfare of the people as to justify the odium sought to be attached to them. On the contrary, the penalties should be regulated so as to compare reasonably with those provided for offenses of a similar grade, and the administration of the laws should be as simple and effectual as will comport with the dignity of the State.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED, CONFERRING ADDITIONAL POWERS ON SURROGATE OF CLINTON COUNTY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *June 23, 1881.**To the Assembly :*

Assembly bill, not printed, entitled "An act giving the surrogate of Clinton county additional powers," is herewith returned without approval.

The express purpose of this bill is to confer upon the surrogate of Clinton county hereafter elected as a separate officer, all the powers and duties performed by a county judge out of court. The Constitution provides that county judges shall exercise the functions of their particular office, and "such other duties as may be required by law." Under this authority the Legislature has by general law invested them with certain powers of justices of the Supreme Court at chambers. It is presumed, therefore, that the real purpose of the accompanying bill is to confer upon the surrogate the same powers of a judge of the Supreme Court as now exercised by county judges.

In creating the office of county judge, the Constitution says that "the county judge shall also be surrogate of his county; but in counties having a population exceeding forty thousand, the Legislature may provide for the election of a separate officer to be surrogate." There is nothing in this language to convey the idea that surrogates were to be vested with judicial powers; and nowhere in the Constitution is authority given to the Legislature to confer upon these officers additional powers or duties of judicial nature. Inasmuch as the Legislature is expressly authorized to extend the jurisdiction of county judges, the conclusion follows that the omission to make similar provision with reference to surrogates leaves the Legislature with no authority to extend their powers.

The authority and jurisdiction of justices of the Supreme Court are derived directly from the organic law, and cannot be abridged or annulled by the Legislature. If like functions can be conferred upon surrogates by act of the Legislature, then by the same means can justices of the peace and county clerks be endowed with similar prerogatives. This proposition admitted, what limit would there be to the exercise of legislative control in the direction indicated? If judicial authority may thus be dispensed, what significance attaches to the Constitutional jurisdiction with which the Supreme Court was originally clothed?

The true theory of our form of government contemplates that the several branches thereof shall be essentially independent of each other, in the discharge of their separate functions; with due accountability as to the proper exercise of their respective powers and duties. In this view it is hardly to be supposed that the framers of the Constitution intended that the Legislature should have indefinite and unchallenged supervision of the judicial department to the extent of distributing like or concurrent authority throughout all appellate and inferior branches. It is more reasonable and consistent to assume that where no such indiscriminate power is expressly granted by the Constitution, it was not intended that it should be possessed or exercised.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 630, FOR THE RELIEF OF JACOB
A. HATZEL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, June 24, 1881. }*To the Assembly :*

Assembly bill No. 630, entitled "An act for the relief of Jacob A. Hatzel," is herewith returned without approval.

Abundant evidence demonstrates that a gross fraud was perpetrated at the election in 1878, whereby Jacob A. Hatzel was deprived of the certificate of election as an alderman of the city of New York. Fraudulent returns gave the certificate of election to his adversary, who served as alderman throughout the term and drew the salary. Mr. Hatzel contested the election before the Board of Aldermen and through the courts ; but not till after the expiration of the term of office was he able to establish his rights, when it was too late for him to realize any benefit from the contest, beyond the moral satisfaction of securing a vindication in the controversy. The accompanying bill proposes to require the city of New York to reimburse Mr. Hatzel for the loss of the salary to which he would have been entitled, but which was paid to his opponent while serving as *de facto* alderman ; and also for the legal expenses incurred by him in making the contest. In view of the outrage perpetrated upon him, which was amply demonstrated by judicial decision, there would seem to be peculiar propriety in making suitable reimbursement ; but unfortunately the Constitution presents an absolute bar to such proceeding, by declaring that "no county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation." Reimbursement, under the circumstances, is simply a gratuity, which the foregoing constitutional restriction expressly prohibits.

A law should be enacted to prevent the payment of official salaries to *de facto* incumbents, when their titles are contested, without a suitable bond of indemnity, by which the contestant if successful, should be enabled to recover the salary to which he may be justly entitled. This would protect all parties according to their real merits, and also remove much temptation which now exists for the violation of the election laws.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 308, FOR THE RELIEF OF WILLIAM C. KINGSLEY AND ABNER C. KEENEY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, *June 25, 1881.*

To the Senate :

Senate bill No. 308, entitled "An act to provide for the payment, by the city of Brooklyn, to William C. Kingsley and Abner C. Keeney, of money due for work and materials in the construction of a storage reservoir, and for the issue of city bonds," is herewith returned without approval.

For the purpose of furnishing an increased supply of water for the city of Brooklyn, the Board of Water Commissioners was authorized by chapter 47 of the Laws of 1871, to carry into effect a plan for extending the water works and constructing additional reservoirs, conduits and other structures necessary for that purpose, which had previously been considered and approved by the board of aldermen. The act fortunately contained a limit to the expenditure permitted to be incurred, in these words: "*Provided the whole expense thereof shall not exceed the sum of one million four hundred thousand dollars.*"

Under the provisions of law the water board acquired the

necessary lands, ponds and streams to furnish the requisite amount of water ; and to provide a suitable storage reservoir. The site selected for this purpose was the bed of a stream containing an area of about 230 acres, and extending about two miles in length, more or less. A contract for excavating and completing this reservoir was made on certain terms and conditions. It was agreed, for instance, that fifty-five cents per yard should be paid for earth excavation, of which it was estimated that there would be about 1,400,000 yards. Early in the progress of the work, however, the plans were changed and the level of the reservoir was lowered three feet, thus increasing the amount of excavation several hundred thousand yards beyond what was calculated when the contract was made. Whether this change of plan was dictated in the interest of the contractors or otherwise, is not fully apparent; but there is little room for doubt that the effect was to largely increase their profits. The entire management of the job appears to have been directed in their favor. Profitable work was increased, and that which was not so favorable was abandoned. More than one million dollars were paid on account of excavation, inclusive of one hundred thousand dollars and upwards allowed for "extra haul" of material removed.

The contract was made in 1872 and the work continued until 1875, during a large portion of which time the price of labor was reduced nearly one-half from the ruling price at the time the bids were made. Thus the profits of the contractors were swelled both by cheaper wages paid for labor and the more profitable kind of work resulting from the changed plans. Finally, in 1875, the city authorities felt constrained to abandon the contract and finish the reservoir themselves, under the direction of the water board. This excited protracted litigation, in which the contractors recovered about \$100,000, in addition to what had been paid them in the progress of the

work. The balance of their claim was rejected by the courts on the ground that no legal liability could attach to the city beyond the limit authorized by law. This balance is now sought to be made valid against the corporation by the enactment of the accompanying bill.

It is manifest that the contractors have already been paid a sum which not only reimbursed them for the value of all the work done, but also provided them with generous profits; and it is submitted that where the courts have found that no further liability can rest upon the city, the Legislature should not compel the city to contribute another hundred thousand dollars simply to swell the gains already realized under a contract which, in its conception and terms, was plainly prejudicial to the interests of the city.

The present Legislature found it necessary several weeks ago to relieve a certain locality of the city of Brooklyn from local assessments, amounting to about one hundred thousand dollars, and charge the same upon the city at large. It is alleged an exigency arose for this from the fact that in the construction of certain sewers the city had been defrauded to such an extent that the assessments could not be enforced. If these allegations are true, the fact that the same parties were the contractors in both instances would seem to make it quite appropriate that the claim now made should be offset by these repudiated assessments. In view of the large emoluments derived from both contracts, no serious hardship is likely to be suffered by the claimants.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 693, INCORPORATING THE WORKMAN'S MUTUAL BENEFIT AND ACCIDENT ASSOCIATION.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 25, 1881.* }*To the Assembly :*

Assembly bill No. 693, entitled "An act to incorporate 'The Workman's Mutual Benefit Life and Accident Association of the State of New York,' " is herewith returned without approval.

The first section of the eighth article of the Constitution provides that "corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects cannot be attained under general laws." Pursuant to this provision general laws have been duly enacted, which are now in force, providing for the incorporation of associations of the character proposed by the accompanying bill, hence the enactment of a special law for the purpose expressed is apparently unnecessary, if it could be permitted.

ALONZO B. CORNELL.

ORDER TO DISTRICT ATTORNEY OF RENSSELAER COUNTY
FOR ENFORCEMENT OF A CERTAIN ORDER RELATING TO
NUISANCE AT HART'S FALLS.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

SAMUEL FOSTER, Esq., *District Attorney of the County of
Rensselaer :*

SIR: Pursuant to chapter 322 of the Laws of 1880, and on the report of the State Board of Health establishing the

existence of a nuisance at or near the village of Hart's Falls, now Schaghticoke, in the county of Rensselaer, caused by an obstruction to the natural flow of the Hoosick river at that point by the construction of a railroad embankment, &c., an order was duly made by me January 28th last, as in such case made and provided, directed to the Boston, Hoosac Tunnel and Western Railroad Company, et al., requiring said railroad company to remove such obstructions and restore the natural flow of water, as therein specifically set forth, within three months from the date thereof. The time specified and limited for the abatement of said alleged nuisance having expired, and information and complaint having been received that the said Boston, Hoosac Tunnel and Western Railroad Company has failed, omitted or refused to comply with said order,

Now, Therefore, you are hereby directed, pursuant to section 8, chapter 322 of the Laws of 1880, to take all necessary measures to execute and have obeyed the order hereinbefore mentioned ; a true copy of which is herein inclosed.

Given under my hand and the Privy Seal of the State,
at the Capitol, in the city of Albany, this twenty-
[L. S.] fifth day of June, in the year of our Lord one
thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

VETO, ASSEMBLY BILL, NOT PRINTED, EXEMPTING TOWN OF
COEYMANS FROM TOWN AUDITORS ACT.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *June 28, 1881.*)*To the Assembly :*

Assembly bill, not printed, entitled "An act to exempt the town of Coeymans, in the county of Albany, from the provisions and operation of chapter one hundred and seventy-five of the Laws of eighteen hundred and seventy-seven, entitled 'An act creating a board of town auditors in the several towns of this State, and to prescribe their powers and duties,' " is herewith returned without approval.

As indicated by its title, this bill proposes to exempt the town of Coeymans, in the county of Albany, from the operation of the town auditors act, which is described as chapter one hundred and seventy-five of the Laws of eighteen hundred and seventy-seven. By inadvertence or otherwise, however, the chapter cited is not the town auditors' act, but is one that relates to a wholly different subject, being an act conferring certain powers upon the commissioners of highways of the town of Glenville, Schenectady county, and having reference solely to the affairs of that town. The act creating a board of town auditors in the several towns of this State, and to prescribe their powers and duties, was enacted in eighteen hundred and seventy-five, and is chapter one hundred and eighty of the Laws of that year. This is, undoubtedly, the act from which it was intended to exempt the town of Coeymans, but this error in citation would obviously defeat that object.

My views in regard to the question of making further exemptions from the law creating a board of town auditors were very fully stated in returning with objection, under date of May 16, ult., Assembly bill No. 39, entitled "An act

to exempt the counties of Chemung and Greene from the provisions and operations of chapter one hundred and eighty of the Laws of eighteen hundred and seventy-five," etc. Reflection has only tended to confirm the opinion expressed on that occasion.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 540, ESCHEAT, RELEASING TO
CATHERINE S. WAKEMAN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June* 28, 1881. }

To the Assembly :

Assembly bill No. 540, entitled "An act to release the interests of the people of the State of New York in certain real estate in the town of Stamford, Delaware county, and in certain lands in the county of Clinton, New York," is hereby returned without approval.

The statement contained in the petition on which the provisions of this bill are based, does not appear to establish a proper case for the voluntary surrender of the interests of the people of this State in the property in question. From the representations made therein it appears that one Daniel Stewart, residing at Hobart, Delaware county, died in July, 1877, seized of a certain real estate in said county, and also in Clinton county; the value of which is stated to be, approximately, \$1,800. It also appears that the deceased left no heirs residing in the United States, and that the nearest relatives are cousins residing in Scotland.

The petitioner, Catherine S. Wakeman, further represents that at the time of the decease of said Stewart, and for a long time prior thereto, an engagement of marriage existed between

them, and that upon three occasions when the deceased required the aid and assistance of others, because of ill health, the petitioner took the principal care of him, and he promised and agreed to transfer to her sufficient of his property to reward her for the services rendered. But no such provision was ever made in her behalf during the lifetime of the deceased; whereupon petition is made for the release of the interests of the people in all of the estate of the said Stewart.

Nothing in the petition indicates the extent or value of the services rendered, except the expression of "three occasions," which cannot be fairly interpreted as indicating any long continued or especially devoted service. On the contrary, from the description of the services, they must be regarded as incidental and disproportionate to the compensation claimed. The petition does not state whether any compensation was ever realized on account of the services alleged to have been rendered. If no payment was made then, very likely the petitioner may have an equitable claim against the estate for the value of services rendered; but all of this should be clearly stated and satisfactorily established. Certainly the interest of the State should not be released without such ascertainment of the rights of the claimant as to establish a just and valid demand for the property in question.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 685, AUTHORIZING CERTAIN
CORPORATIONS TO DEAL IN PATENT RIGHTS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, {
ALBANY, *June 28, 1881.* }

To the Assembly :

Assembly bill No. 685, entitled "An act giving corporations organized under chapter forty of the laws of

eighteen hundred and forty-eight, entitled 'An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes,' and the acts amending and extending the same, the same rights as natural persons to own, sell and deal with patents and rights, licenses and royalties thereunder," is herewith returned without approval.

In framing laws for the formation and government of corporations care has been taken customarily, to confine the powers granted within certain specified bounds. The courts when called upon to interpret these laws have uniformly construed them as limited in their scope to the objects expressly provided, according to the terms of the enactment. It would be manifestly improper, therefore, to enlarge by general statute the powers of a certain class of incorporations with reference to owning and dealing in patents. If this peculiar license is to be given to corporations organized under one general law, common justice requires that the same privileges should be conferred upon all other corporations created pursuant to every general law.

There can be no reasonable doubt that the corporations described in the accompanying bill are already competent to acquire, own, use, grant licenses under, and sell any such patents as may be pertinent to and useful for their ordinary business, or the purposes of their organization. This right has been affirmed repeatedly by the courts in actions under the patent laws, where corporations have appeared as parties in litigation. If the aim of the bill is to confer upon the corporations organized under a particular law designed for a different object the right to deal in patents generally or exclusively as a business, it may be fairly questioned whether it would be sound policy to promote such purpose.

ALONZO B. CORNELL.

PROTEST FILED WITH THE SECRETARY OF STATE AGAINST
PROMULGATING CERTAIN BILLS AS LAWS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *June 28, 1881.* (The Honorable JOSEPH B. CARR. *Secretary of State:*

SIR: The action of the Senate in sending to your office for record and promulgation as laws, two bills vetoed by the Executive, May 16, ultimo, gives rise to a serious conflict of opinion as to the constitutional rights and duties of the legislative and executive departments, which in my judgment the highest interest of the State requires should be promptly and definitely settled by judicial decision. Fortunately the two bills referred to are in themselves of little consequence, compared with the importance of the underlying question, namely: What is the time within which the Governor shall return a bill to either branch of the Legislature with his objection?

The matter in controversy is briefly this: Two bills originating in the Senate were received at the Executive Chamber on May 4, but did not meet the Governor's approval. On Saturday, the ninth day after their receipt, he prepared objections to them, but the Senate having adjourned from Friday until Monday, the bills could not be returned until the latter day. At a seasonable hour on Monday they were delivered to the Private Secretary, to be by him presented to the Senate. The Private Secretary, charged also with other messages for the Senate and Assembly, both of which houses were to meet at eight o'clock, evening, left the Executive Chamber at quarter before eight, and reaching the Assembly before the hour of meeting, waited until its organization, whereupon he delivered the messages prepared for that body. Proceeding immediately, he reached the Senate Chamber at seven minutes past eight o'clock and found the Senate already adjourned without

the reading of its journal, or the transaction of any business. Thus by hasty adjournment, and contrary to its usual custom, the Senate prevented the return of the bills in question on that day ; and they were accordingly presented by the Secretary on the following morning to the Senate, and were received by that house without objection, together with the veto messages accompanying them. In strict conformity with the Constitution the Senate did "enter the objections at large on the journal," and the official document as published contains both of the messages in full. Instead, however, of further observing the constitutional direction to "proceed to reconsider," the Senate, omitting such action, retained the bills several weeks, and finally adopted resolutions affirming that as they were not returned within the constitutional time, they had become laws ; and directing the Senate clerk to deliver the same to the Secretary of State.

The duty of the Governor is defined by the Constitution in the following language : "Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor ; if he approve, he shall sign it ; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider [it. * * * If any bill shall not be returned by the Governor within ten days (Sundays excepted), after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor.

The Supreme Court of Illinois (33 Ill., 135), in a case almost identical with the one under consideration, decided that the Governor must have the full ten days, and that a bill could only be returned to a house in session, using this language : "It (the Constitution) neither requires nor authorizes him

(the Governor) to return the bill to the Speaker of the House, to the clerk or to any other officer, but declares that it shall be returned to the house, and that can only be as a body. Unless the body was in session, he would be unable to return the bill to it as required by this provision. If on the tenth day the members and officers were absent, the Governor would have until the first day of their next assembling to return the bill with his objections. To be required to act there must be an organized body in session at the place of holding its sessions. The Executive is not required to seek the members as individuals, but to make his communication to a collective body, constituting the House which, as such, originated the bill. When dispersed there is no such body to whom he can communicate * * * And the time allowed for the purpose cannot be abridged, or the provision thwarted by either accident or design. The use of the whole time given to the Governor must be allowed. The Constitution has spoken and it must be obeyed. The Constitution in this case has allowed the Governor ten days within which to act, and they must be held to be full and complete days, not parts of days."

The long established usage in this State has been to deliver bills returned with objection to either House in session, and never to an officer thereof. In numerous instances during my term, as well as in the case of nearly every one of my distinguished predecessors, bills have reached their tenth day on Saturday, when neither House was in session. The uniform practice has been to return such bills with objection on the succeeding Monday, or as soon thereafter as the Legislature again assembled. Never has such course been questioned; and never has an attempt been made to give the bills thus vetoed the sanction of law. The return of bills under such circumstances has always been accepted by the Legislature as a full and complete compliance with the constitutional requirement in this regard.

If it be claimed that under these circumstances these bills became laws, then it may be in the power of either House, by similar action, to make a law of any bill which the Governor should chance to hold until the tenth day. The Governor could not with safety retain a bill beyond the ninth day, and if the tenth day happened to be Monday, he could not prudently hold it longer than Friday, which would be only the eighth day. This would be a manifest encroachment upon the constitutional right of the executive to ten days in which to determine his action on a bill.

The Constitution requires the concurrence of a majority of each House to pass a bill: hence, in conferring the veto power upon the Governor he is thus enabled to antagonize a majority of both branches of the Legislature. By requiring two-thirds to enact a law notwithstanding Executive objection, it is evident the framers of the Constitution could not have intended to place within the control of a bare majority of one or either House the power to defeat a veto by voting an adjournment.

Supposing, after the Governor had prepared his objections, and had directed the return of a bill, the Secretary, on the way to the Legislature, accidentally lost it, or was overpowered and the message forcibly taken from him; or that the Secretary purposely failed to deliver it to the proper House? will it be claimed that under such circumstances the bill would become a law? If so, the intention of the Governor might be defeated, his efforts thwarted, and by robbery or accident, or by design of a faithless Secretary, a law created which the Constitution requires two-thirds of each House to enact.

Believing that neither of these bills has become a law, therefore, respectful but earnest protest is hereby made against affixing your certificate thereto; as well also against the promulgation of either or both of said bills as laws, of

description and titles as follows, namely: Senate bill two hundred and two, entitled "An act in relation to the Ulster and Delaware Plankroad Company," and Senate bill two hundred and sixteen, entitled "An act to change the corporate title of the Bankers' Life Insurance and Trust Company of New York to the Bankers' Loan and Trust Company of New York." This protest is made not only to prevent the publication of laws not duly enacted, but also in the hope that action may follow to secure a full judicial determination of the issues involved.

Yours, respectfully,

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 264, IN RELATION TO BUILDING
DOCKS IN THE CITY OF NEW YORK.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *June 29*, 1881. }

To the Senate:

Senate bill No. 264, entitled "An act in relation to the building of docks in the city of New York," is herewith returned without approval.

Two separate propositions are embraced in this bill; both relating to the duties of the dock department in the city of New York. The first authorizes and directs that department to construct a pier for the use of the police department, to be located between the new pier, number one, North river, and Castle Garden; and when completed, to be set apart for the exclusive use and control of the police department. What necessity or justification there may be for the expenditure requisite for this purpose is unknown to me beyond the representation of the police department, in its favor. The

second proposition is embraced in the fourth section of the bill, prohibiting the dock department from proceeding with contemplated improvements on the water front between Twenty-second and Twenty-fourth streets, North river. Against this provision the dock department makes emphatic protest, sustained by what appear good and substantial reasons.

The commissioners of the dock department represent that "the permanent improvement of the water front between Twenty-second and Twenty-eighth streets is in rapid progress of construction, providing for the two hundred and fifty feet River street and six new piers greatly increased in length and width, four of which are now building. The contract for another is to be awarded to-morrow; while the location for the other near Twenty-third street has been agreed upon with the parties interested, and the lines been approved by the commissioners of the sinking fund, as required by law. If this bill becomes a law, the city would lose one pier at Twenty-third street, the rental value of which would be thirty thousand dollars per annum. The most unfortunate feature of the bill, however, is that it will absolutely stop the construction of the new bulkhead between the points named, a distance of about six hundred feet, thus interrupting an elaborate and well-considered plan for the improvement of the North river water front, which, under the sanction of previous legislation, has for years been progressing at an expenditure already incurred of several millions of dollars. One of the most important features of this improvement is the uniform River street two hundred and fifty feet wide, upon which large expenditures have been made both above and below the locality in question. To stop the work, as now proposed, would reduce the whole plan to an absurdity and nullify its main object."

In view of an expression of this character from officials upon

whom rests the responsibility of this great public improvement, it would be manifestly unwise to interfere with its development by arbitrary legislation of the kind proposed. The commissioners, it must be presumed, are competent to form a correct judgment of the proper course to be pursued under the circumstances ; and until it is demonstrated that their position is wrong, those having less opportunity of informing themselves as to the merits of the question at issue should heed their advice.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 423, IN RESPECT TO THE TESTIMONY OF INFORMERS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *June 30, 1881.* }

To the Assembly :

Assembly bill No. 423, entitled “An act in respect to the testimony, or the offering of testimony of certain persons who serve as agents, informers or spies,” is herewith returned without approval.

The uniform tendency of legislation in this State for many years past, in both civil and criminal cases wherein questions of fact were at issue, has been toward admitting almost every kind of evidence, and permitting all parties to give testimony, regardless of their relations to actions. By this practice every shade of evidence is given to the court and jury for whatever it may be worth. The wisdom and propriety of such policy have been so fully demonstrated as to place it beyond question. The proposition contained in this bill to exclude the evidence of a particular class of persons, is in direct opposition to the established rule of the State as indicated by many

years of legislation and practice. A reversal now should not be permitted except as the result of mature and wise deliberation. The class of evidence it is thus proposed to exclude has always been regarded as competent, and no good reason appears why it should not so continue. Every person accused of crime is permitted to testify in his own behalf, and the exclusion of the testimony of any witness is in effect to declare that it is more criminal to see a crime committed than to perpetrate the criminal act itself. The mere statement of such a proposition is sufficient to illustrate its utter absurdity. The exclusion of evidence, otherwise lawful and proper, cannot be sought in the interest of society, or for the protection of innocent people.

The greatest obstacle to the execution of the present statutes, and the enforcement of the penalties prescribed, is the difficulty of procuring evidence upon which the prosecution of offenders may be successfully undertaken. Public officers on whom the responsibility of such prosecution rests, however faithful and zealous, are frequently unable, with the means at command, to obtain adequate proof to secure conviction. The numerous and flagrant violations of these laws in several of the principal cities of the State, have induced philanthropic and law abiding citizens to organize societies in aid of the public authorities in this regard. These agencies have rendered invaluable service to the public by co-operating with the prosecuting officers of the State in their efforts to enforce and maintain the mandates of law. The inevitable effect of the accompanying bill, should it become a law, would be to deprive the people of the assistance of these volunteer auxiliaries.

Notwithstanding the express provisions of the Constitution and laws enacted in accordance therewith, prohibiting the sale of lottery tickets within the State, this nefarious traffic has for years been carried on in open defiance of solemn enact-

ment. Within the past year renewed efforts on the part of the public authorities have resulted in the punishment of many reckless offenders, and substantial progress has been made toward the suppression of the evil in question. Eventual success in establishing and maintaining the supremacy of the Constitution and laws, for the suppression of vice and crime, depends materially upon the encouragement and co-operation these voluntary societies may be enabled to render to the law officers of the State.

If the proposed disability is sought to be imposed in consequence of the misconduct of spies and informers, an error has evidently been committed as to the remedy for such abuses. If evils exist in the methods employed to an extent demanding additional legislation, it should be directed against the wrong-doers, to secure their punishment. If any person procure the commission of crime with the sole intent of informing against his victim, who may be led unawares or enticed into a violation of law, he should be punished as *particeps criminis*; but to declare by statute that the testimony of no person, without qualification, who has witnessed the commission of an offense, or is knowing to any circumstance connected therewith, shall be received in evidence because he has lodged information of the crime committed, is rather a violent and dangerous presumption.

ALONZO B. CORNELL.

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VETO, ASSEMBLY BILL No. 219, FOR CERTAIN SUPPLIES TO
THE PUBLIC SCHOOLS OF BROOKLYN.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *July* 1, 1881. }*To the Assembly:*

Assembly bill No. 219, entitled "An act to provide for the distribution of books, slates and other necessary articles, free of charge, to the pupils attending the public schools of the city of Brooklyn," is herewith returned without approval.

The State of New York has advanced to the very extreme of liberality in providing advantages for public education. Facilities absolutely free of expense are now afforded to every child within the broad expanse of this great commonwealth. Failure to acquire the rudiments of useful learning under existing circumstances, will be a deserved and lasting reproach upon those neglecting the ample opportunity so generously provided. Nowhere within the State has the system of public education been so highly developed as in the city of Brooklyn. Probably no other city in the world offers equal facilities for the cultivation of the rising generation. This enviable distinction, which reflects so much credit upon the citizens of that city, has been accomplished under existing laws.

The accompanying bill, as its title indicates, proposes to provide for the distribution of books, slates, and other necessary articles, free of charge, to the pupils attending the public schools of the city of Brooklyn, whose board of education already possesses all needful authority and jurisdiction in this regard; and hence this proposition is altogether unnecessary. Pupils destitute of the means to provide themselves with the articles mentioned are now furnished with them at the public expense. Those who can furnish their own

books and other requisites should not be treated as charity scholars. There is no more reason why they should be supplied with books free of charge than that they should be furnished with shoes or clothing at public cost.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 345, FOR THE PROTECTION OF LIFE AND PROPERTY IN THE PUBLIC SCHOOLS OF BROOKLYN.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *July 1, 1881.* }

To the Assembly :

Assembly bill No. 345, entitled "An act to provide for the better protection of life and property in the public schools of the city of Brooklyn," is herewith returned without approval.

The public schools of the city of Brooklyn are under the jurisdiction and management of the Board of Education, which is responsible for the care and maintenance of the school edifices, as well as for the safety of the teachers and pupils under their charge. The magnitude of this responsibility may be realized when it is considered that approximately 100,000 persons are in daily attendance at these schools. The Board of Education is invested with ample authority to make every requisite provision for the protection of property and the safety of life and limb. If additional precaution is necessary to render the school buildings safer than as at present arranged, it is the duty of that board to so provide. The proposition made in the accompanying bill is to confer authority upon the fire department to provide each school building with a suitable fire alarm to be connected with the fire alarm telegraph system now in operation in the city of Brooklyn. There should be no divided responsibility about a matter of such vital importance as this. The duty should

remain with the board having the control and management of the schools.

The most serious objection to this bill, as well as to the bill providing for school books, is that the subjects to which they relate are peculiarly under the jurisdiction of the local authorities of the city of Brooklyn; and are, therefore, outside of the legitimate sphere of the Legislature. The Constitution requires the passage of general laws for certain enumerated purposes, and for all other cases, which in the judgment of the Legislature may be provided for by general laws. To meet all requirements with reference to the public schools, general laws have already been provided, and hence, the Constitution virtually forbids legislation of the character proposed. The Board of Education, in conjunction with the Board of Estimate, in the city of Brooklyn, being already endowed with full authority in all matters pertaining to the public schools, the subject in question should go there for determination.

ALONZO B. CORNELL.

VETO. ASSEMBLY BILL No. 361, RELATING TO THE SPUYTEN
DUYVIL PARKWAY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER. }
ALBANY, *July 2*, 1881. }

To the Assembly:

Assembly bill No. 361, entitled "An act to authorize and direct the commissioners of the department of public parks of the city of New York to alter and amend their maps made and adopted in pursuance of chapter six hundred and four of the Laws of eighteen hundred and seventy-four, and chapter four hundred and thirty-six of the Laws of eighteen hundred and seventy-six, by striking therefrom a proposed road

leading from a point near the Spuyten Duyvil and Port-Morris railroad company's depot at Spuyten Duyvil to Broadway, with the parks connected with it and known as the Spuyten Duyvil parkway, and to lay out a new road and proceed to open a road from said Spuyten Duyvil depot to Broadway, and to provide for the payment of the expenses and compensation of the commissioners and others in the Spuyten Duyvil parkway proceeding," is herewith returned without approval.

On the first of January, eighteen hundred and seventy-four, the territory previously embraced within the towns of Morrisania, West Farms and Kings Bridge was detached from the county of Westchester and annexed to the city of New York, as constituting and comprising the Twenty-third and Twenty-fourth wards. At the ensuing session of the Legislature, by chapter six hundred and four, of the Laws of eighteen hundred and seventy-four, the commissioners of the department of public parks were vested with "exclusive power to lay out, survey and monument all streets, roads, avenues, public squares and places within that part of the city of New York, north of One Hundred and Fifty-fifth street on Manhattan Island and all of the Twenty-third and Twenty-fourth wards, of such width, extent and direction, and upon such grades as to them, or a majority of them, shall seem most conducive to the public good; and to change the location, width, course, windings and grades of the streets, avenues and roads now laid out within the said part of the city of New York, or to discontinue or close the same or any portion thereof, as to the said commissioners, or a majority of them, shall seem most conducive to the public interest, and in like manner to devise and prepare plans for the proper sewerage and drainage of the Twenty-third and Twenty-fourth wards." The act also provides in detail for the execution of the duties thus imposed; and operating in conjunction with general laws providing for

opening and working streets in New York, it makes a complete and comprehensive system for the improvement of this portion of this city, covering an area considerably larger in extent than the entire city prior to the annexation.

The foregoing act was followed a few months later by the adoption of the amendments to the Constitution which provide that "the Legislature shall not pass a private or local bill laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps." The Court of Appeals, in deciding the Western avenue case (67 N. Y., 574), sustained the act in question, because "the improvement contemplated could not be made * * * under the general laws," and "the act provides for that which is not ordinarily done under the general laws for regulating public highways or the streets of a city." The only fair inference to be drawn from this decision is that where a definite system of highway improvement has been provided, local legislation affecting that system in detail, or by special exception, cannot be permitted.

The accompanying bill directs the Park Commissioners to amend their map of that portion of the city before described, made pursuant to the act of 1874, "by striking therefrom the road, avenue or parkway, shown on said map, commencing at a point near the depot at Spuyten Duyvil and running thence in a general north-easterly direction to Riverside avenue, and thence to a certain point named on Broadway, and also by striking therefrom all parks or places connected with said proposed road, and the said road, roads, parks, places and parkways are hereby discontinued on said map." The Commissioners are further directed to lay out a new street or avenue not to exceed sixty feet wide, substantially over the same line as the one stricken from the map. It is difficult to conceive of a more direct and positive infraction of the constitutional restrictions cited than these provisions. It is pre-

cisely the reverse of the Western Avenue case, where local legislation was permitted because no general law was applicable. In the present case, a complete system has been provided by a general law alike in its operations throughout a particular territory, and it cannot therefore be invaded by special legislation.

Another vital defect in this bill is that it contains express provisions for the drainage of a certain specified district of which no mention is made in the title, as required by the sixteenth section of the third article of the Constitution. There are also other questionable features of the bill, which need not be specially mentioned in view of the objections already stated.

Earnest remonstrance has been made against the approval of the bill by property holders along the line of the proposed highway, owning about three-quarters of the frontage, while those favoring the bill own only about one-tenth of the property fronting on the line in question. The bill is also favored by many parties owning property within the assessment district but not immediately adjoining the parkway.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 450, PROVIDING FOR FISH
HATCHERY IN JEFFERSON COUNTY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *July 4, 1881.* }

To the Assembly :

Assembly bill, printed number 450, entitled "An act requiring the commissioners of fisheries of the State of New York to construct suitable buildings in Jefferson county, to hatch and rear fish, to increase and maintain the stock and supply of certain varieties thereof in Lake Ontario and the St. Law-

rence river, and making an appropriation therefor," is herewith returned without approval.

During the past twelve years the State of New York has expended more than one hundred and seventy thousand (\$170,000) dollars for the purpose of replenishing the lakes and rivers of the State with fish. An establishment for their propagation, located near Rochester, is kept and maintained at the public expense; and from this hatchery young fish are shipped to all parts of the State for re-stocking depleted and destitute waters. It is obvious that this work can be conducted at one place to much better advantage than when located at two or more distant points; while transportation would be quite as advantageous from one station as from several.

The accompanying bill proposes that the commissioners of fisheries shall construct suitable buildings, with the necessary fixtures and ponds, in Jefferson county, for the purpose of hatching and raising the principal varieties of fish that frequent the waters of Lake Ontario and St. Lawrence river; and appropriates three thousand dollars for that purpose. It is difficult to realize what possible benefit the State would enjoy, resulting from such expenditure, to which it is manifest considerable cost for maintenance would be added hereafter. If the proposition is made for the advantage of Jefferson county, what is to be done, it may be asked, when St. Lawrence, Oswego, Niagara and other counties ask for similar accommodations and privileges? It can hardly be denied that any of these counties has as much right to like consideration and favor as the county of Jefferson; and none will doubt the utter impracticability of locating a hatchery in every county of the State.

ALONZO B. CORNELL.

VETO, SENATE BILL, No. 167, TO ORGANIZE AND ESTABLISH A
STATE INDUSTRIAL SCHOOL.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,)
ALBANY, *July 4, 1881.* {*To the Senate :*

Senate Bill No. 167, entitled "An act to organize and establish a State Industrial School," is herewith returned without approval.

A voluminous catalogue would be required to enumerate the mistakes heretofore made by the State in founding different institutions. Too much care cannot be observed to avoid a repetition of such errors. The present Legislature has already committed the State to the establishment of two new retreats, and until the demand for appropriations to complete enterprises already undertaken shall be considerably reduced, great caution should govern the inauguration of others.

Fully appreciating the importance of providing all necessary facilities for the education and elevation of idle and truant children, it is my judgment that the subject should be approached with especial deliberation, in order that the wisest and most appropriate action may be determined. A State institution in its very beginning necessarily involves considerable expenditure, and annual appropriations are a legitimate consequence, thereafter, for maintenance. Before such liability shall be incurred, the whole question should be submitted to a proper commission for investigation and report to a future Legislature for more mature consideration. Even if such course result in the passage of this same measure another year it will be better than to run any risk of erroneous and hasty action at this time.

ALONZO B. CORNELL.

VETO, SENATE BILL 408, NEW YORK CITY WATER SUPPLY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July 5, 1881.* }

To the Senate :

Senate bill No. 408, entitled "An act to provide a further supply of pure and wholesome water for the city of New York," is herewith returned without approval.

Although stated in very general terms, the particular object of this bill is to authorize the construction of an additional aqueduct for the conveyance of water from the Croton dam to the city of New York. The engineers of the Croton water bureau frankly state that the purpose is to construct a new and independent aqueduct of more than double the capacity of the present one. While no very definite statement has been made as to the anticipated cost of the new work, the engineers admit a probable expenditure of at least twelve million dollars. Comptroller Campbell, who is a practical engineer of large experience and eminent character, and who has just served a term of five years as commissioner of public works, expresses the opinion that the proposed work will cost at least fifteen millions. Other persons less familiar, perhaps, with the subject, believe that even a much larger sum will be required to complete the enterprise. Confessedly, therefore, the bill under consideration must be treated as a proposition to increase very largely the permanent debt of the city for the purpose set forth.

The public debt of the city of New York, exclusive of the accumulated sinking fund, amounts at the present time to about one hundred million dollars, with a net annual interest charge of nearly seven millions. The process by which a large proportion of this colossal debt was created, forms a chapter in the history of municipal government replete with scandal and reproach, not only to the city and State of New York,

but to American civilization as well. Beyond all comparison it is the blackest stain upon the integrity of human government of which we have any record. No enlargement of this great debt should be permitted, except under the most pressing and unavoidable necessity. On the contrary, every possible effort should be exerted to reduce and extinguish it as speedily as practicable. This is demanded as a vital condition to the future growth and continued supremacy of our great metropolis, whose burden of municipal taxation more than all else endangers and retards her prosperous development.

What then is the emergency to meet which it is now proposed to augment the present liability of the city? It is alleged that an additional supply of water is imperatively needed, and this, too, when ninety-three gallons per capita are daily furnished. Nobody will pretend that any community can properly use one-half of that amount. The only inference to be reasonably deduced is, that a large proportion of this great volume of water is worse than wasted. Were it a simple waste comparatively little harm might result from it. But unfortunately more serious consequences follow in the breeding of disease, by the dissemination of poison. Many of the more fatal maladies developed of late years, are attributed by the medical profession, to causes having their origin in the abuse of modern facilities of water supply.

Probably the most forcible illustration of the needless waste of water and its practicable remedy, may be drawn from the experience of the city of Liverpool. Ten years ago that city was threatened with water famine. The supply had become so meagre that the people could only obtain water at certain hours of each day. Intelligent and well directed efforts were undertaken to stop unnecessary waste, which resulted within a few months, without increasing the supply a single gallon, in converting a deficient and inadequate flow of water into an ample and even superabundant quantity, Liverpool contains

a population of about seven hundred thousand souls, substantially two-thirds of that of New York city. The total cost of the improvement which worked such a marvelous change in the water system of that city was less than a quarter of million of dollars. The same plan applied in several other cities of England has produced similar results ; hence it cannot be doubted that equal benefit would be derived from like efforts here. Liverpool has now abundant water in a daily supply of about twenty gallons per capita. What possible excuse can there be, therefore, for a scarcity in New York, with ninety-three million gallons delivered every twenty-four hours through the Croton aqueduct ?

In the light of such experience as that related, may it not be wiser and safer to have the necessity of an increase more thoroughly demonstrated before the proposed work is undertaken at the enormous cost inevitably involved in the construction of an additional aqueduct from Croton river to the city ? When once begun every dollar invested in the work will be of no value until the entire structure shall have been completed and brought into use. It is of the greatest importance, then, that no mistake shall be made as to the absolute and unquestioned need of this extraordinary project.

In the event, however, of satisfactory proof of an indispensable necessity for a new aqueduct, some consideration must be given to the financial aspect of the case. The Constitution says : “ It shall be the duty of the Legislature to provide for the incorporation of cities and villages, and *to restrict their power of taxation, assessment, borrowing money, contracting debt and loaning their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations.*” In the face of this imperative injunction the Legislature has provided in the accompanying bill for an increase of the permanent debt of the city of New York, limited only as in the judgment and pleasure of the Commis-

sioner of Public Works may seem best. True, the Board of Estimate and Apportionment is given certain concurrent authority as to the approval of contracts and purchase of real estate, but the power granted is really of a negative character. The Commissioner of Public Works is vested, indeed, with immense and arbitrary powers, independent wholly of any other authority, save only the incidental concurrence of the Board of Estimate and Apportionment referred to.

Instead, therefore, of observing the positive command of the Constitution to restrict the city of New York in contracting indebtedness, the Legislature would by this bill place it within the power of one single official to increase the permanent debt thereof to whatever sum he might see fit. In the words of the bill, "The comptroller of the city of New York is hereby authorized and directed, upon the requisition of the Commissioner of Public Works, to raise from time to time on bonds of said city, in addition to the amounts which he is now authorized to raise for such purposes, such sums of money as shall be sufficient to pay for any real estate, with all expenses in surveying, locating and acquiring title thereto; and to pay for furnishing and laying pipes and constructing aqueducts, reservoirs, dams, sluices, canals, pumping works and other appliances and appurtenances, and for surveying, locating, preparing plans and estimates, and for supervision of the construction thereof." Can it be doubted that such unchecked authority for enlarging the debt of the city would be violative of the constitutional restrictions cited? Manifestly, any legislative authority for increasing municipal indebtedness must be appropriately exercised in accordance with this prudential clause of the organic law of the State.

The wisdom of the proposition to burden the Commissioner of Public Works with vast responsibilities created by the accompanying bill, may well be doubted. That officer is

already charged with duties whose faithful and intelligent performance must necessarily tax the ability and resources of any man. He now directs the expenditure of three million dollars annually in the conduct of ordinary affairs pertaining to the department committed to his management. To impose the additional requirements contemplated, upon an officer sufficiently occupied with important labors, is more than reason and a proper sense of official responsibility can possibly justify. No private undertaking or corporate trust of like magnitude would be thus reposed in a single individual. Even with large experience in public matters, one might well hesitate to assume the direction of such enormous and difficult affairs; and there is certainly no good reason apparent why any doubtful experiment should be undertaken at this time.

Measured by the probable outlay that would follow the enactment of this measure, it will easily rank in importance with the original Croton-water enterprise, or the Erie canal as finally enlarged. Yet, with all its possible importance, the community directly interested has given the subject no consideration, commensurate with its magnitude. Judging from letters recently received by me from some of the most intelligent and public-spirited citizens of New York, it is evident that the scope of this bill is not adequately understood or appreciated by the people at large. Only last year Commissioner Campbell opposed the creation of a commission to inquire into the necessity of a new aqueduct, on the ground that such a work would not be needed for several years. In that connection he said: "In twelve or fifteen years, if the affairs and finances of the city are wisely, economically and honestly conducted, the debt will be reduced, by the operation of the sinking fund, nearly fifty millions of dollars, and then, should it be found necessary to construct a new aqueduct of large dimensions from the Croton basin, the city will be

able to meet the expense with a reduced debt and lighter taxation from the increased value of taxable property.”

The Union League Club, which embraces a large membership of the most intelligent and influential citizens, in a recent memorial on the subject, says: “It is clear from Commissioner Campbell’s statement that there is no immediate necessity for the construction of a new aqueduct from the Croton valley. The additional supply from the Bronx river, amounting to eighteen or twenty million gallons per diem, and the measures for the suppression of waste, render it safe to defer the construction of a new aqueduct until the question can be deliberately examined by commissioners, and fully presented to the tax payers of the city, and at the ensuing session of the Legislature.” This expression undoubtedly represents the views and opinions of independent citizens, having only the welfare of the city at heart.

Another Legislature will enter upon its duties within six months from this date, when the subject can be resumed and prosecuted to a wise and useful conclusion. Certainly, no serious harm can result from the brief postponement which this course will involve. If the project shall then commend itself to the judgment of the Legislature, it will be far more likely to secure the approval of the constituency immediately interested than would probably follow upon any present action. An enterprise of such proportions should not be undertaken until its merits are thoroughly appreciated and acknowledged.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 242, TO LEGITIMIZE THE BIRTH OF
ROBERT JOHN EHLERS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July 5, 1881.* }*To the Senate :*

Senate bill No. 242, entitled "An act to legitimize the birth of Robert John Ehlers," is herewith returned without approval.

It is pertinent to consider first, the propriety of putting a law of this kind on our statute books. To declare in legal form that the birth of any person, born out of wedlock, shall be legitimized, is an assumption degrading to law, and void of compensating benefits. Besides making public the illegitimacy of a person that might not otherwise have been disclosed, it tends likewise to depreciate the force and dignity of legal enactment designed primarily to promote virtue and order, and suppress the evils of discord and immorality. To legalize a birth occurring without the ordinances of divine or human law, does not wipe out the natural stain. The advantage sought by such method could better be reached by other means.

Aside from these general considerations there are reasons why this particular measure should not become a law. In one affidavit accompanying the petition upon which the bill is based, the reputed father swears that he "was a resident of the State of New York from 1848 to 1858, when he left the United States to carry on business as a merchant in the city of St. Petersburg," Russia. In another affidavit, the same person swears that he was naturalized as an American citizen in the District Court of Clinton county, Iowa, on the 29th day of December, 1857. From these representations it is made to appear that the petitioner became a naturalized citizen of the United States in Iowa, during the time when he is

said to have resided in New York. The conflict of such statements is at least unfortunate, if not positively damaging.

The petition represents that the child was born in St. Petersburg, January 14, 1866, and that the parents were married in the same city, January 26, 1869, as evidenced by a marriage certificate of the pastor of St. Peter's church in St. Petersburg, dated November 25, 1877. It appears, therefore, that although Ehlers may have been at one time an alien resident of New York, it is extremely doubtful if he was ever a citizen of the State; and even if he was, he has been a non-resident for more than twenty years past. From all of which circumstances it seems manifestly improper to permit this bill to become a law, especially as careful examination of the laws of the State fail to disclose any legislation of an analogous character.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 712, FOR THE PROTECTION OF
PRIVATE PROPERTY,

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July* 5, 1881. }

To the Assembly :

Assembly bill No. 712, entitled "An act for the further protection of private property and to repeal chapter two hundred and sixty-two of the Laws of eighteen hundred and seventy-four, entitled 'An act for the further protection of private property,' " is herewith returned without approval.

This bill proposes to make it a misdemeanor for any person to put, paste or post any written or printed matter upon any bill-board, fence, house or building of any kind without the permission of the owner or person entitled to the possession or use of the same. Thus whoever, within the broad domain

of this State, shall chance to pin up a notice for a school meeting, a religious or temperance meeting or other proper assemblage of people, without first obtaining the consent of the owner or occupant of the building or fence upon which the notice is placed, will commit a misdemeanor. Such a law would lead to endless and useless trouble throughout the rural districts of the State. However proper and beneficial it might be within cities and villages, there is nothing to justify its application generally.

Even if the operations of the proposed law were limited to certain specified sections of the State, the penalties named are altogether beyond reason when considered in connection with the character of the offense. They are out of all proportion to the grade of punishment provided for other misdemeanors similar in degree. Manifestly, therefore, the bill provides for cruel and unusual punishment, and for that reason is repugnant to the fourth section of the first article of the Constitution.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 375, PROVIDING SALARY FOR
ALDERMEN OF LONG ISLAND CITY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, {
ALBANY, *July* 6, 1881. }

To the Assembly :

Assembly bill No. 375, entitled "An act to provide a salary for the Aldermen of Long Island City," is herewith returned without approval.

The proposition embraced in this bill to provide a salary for the Aldermen of Long Island City, does not commend itself to my judgment. In the earlier days of the State, offices of this character were regarded as honorary trusts, for which no

direct fee or reward was provided or desired. The satisfaction of earning the commendation of neighbors for whose benefit services were rendered, was considered ample compensation. In numerous instances political and public careers of great distinction have commenced in positions of this description. Especially for young men ambitious of gaining the good opinion of the communities in which they reside, there is no more desirable position than that of a member of the board of local authority. The practice in later years to make salaried offices of minor representative positions has unquestionably tended to lessen the honorable estimation in which they were formerly had. Nothing in the nature of aldermanic duties renders a return in the shape of salary either necessary or desirable. The services exacted are not such as to require absence from home, or any particular neglect of business. As a general rule the amount of time demanded for the proper discharge of official duties is not sufficient to cause embarrassment, the hour for meetings being usually arranged so as to cause as little inconvenience as possible.

There are, moreover, special objections to the accompanying bill, which are believed to be worthy of consideration. These apply with especial force to the financial condition of Long Island City, which has for a time been anything but satisfactory. For some reason—whether from improvident management or other cause, it is quite immaterial now to consider—the rate of taxation has been for several years so high as to render the collection of taxes exceedingly difficult, which has sensibly affected the financial credit of the city. Property has been greatly depreciated and the market value of some of the city securities held at considerable discount. It is understood, however, that measures of retrenchment have lately been inaugurated, giving promise of improvement in respect to fiscal matters. In view of all these circumstances the present does not seem to be a propitious time to authorize an

increased expenditure, especially for the purpose specified. Even should it be thought wise to provide compensation for aldermen eventually, the proposition should certainly await more favorable conditions than now exist.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED, RELATING TO THE VIL-
LAGE OF DRESDEN, YATES COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, July 8, 1881. }

To the Assembly :

Assembly bill, not printed, entitled "An act to amend an act entitled 'An act for the incorporation of villages, so far as it relates to the village of Dresden, in the county of Yates, passed April twenty, eighteen hundred and seventy,' " is herewith returned without approval.

Affairs of villages have long afforded a prolific subject for legislation ; and repeated efforts have been made to establish such general system as to obviate the necessity or demand for special enactments relative to the same. As long ago as in eighteen hundred and forty-seven, a general law was passed for the incorporation of villages, which was superseded by a more comprehensive act in eighteen hundred and seventy. Pursuant to these laws many villages of the State have been incorporated, and are now governed. Constantly increasing pressure for local legislation in regard to such incorporations, finally resulted in the adoption of the constitutional amendment, which took effect in eighteen hundred and seventy-four, prohibiting the Legislature from passing local bills in certain enumerated cases, including the incorporation of villages. The obvious intent of this restriction was to fix a stable and uniform rule, as far as practicable, and thereby render special

legislation unnecessary. Any action, therefore, disregarding such policy must be considered as antagonistic to the organic law of the State.

The accompanying bill proposes to amend the general law for the incorporation of villages, chapter two hundred and ninety-one of the Laws of eighteen hundred and seventy, so far as it relates to the village of Dresden, in the county of Yates. If this proposition were acceded to, every other village in the State would have equal right and privilege to apply for amendments to the general law to suit their particular views and convenience. It would be absolutely impossible in such case to make reasonable discrimination; and the object of the constitutional provision would thus prove entirely abortive. There are at the present time three hundred and twenty-one incorporated villages in the State; and the number is yearly increasing. A very large proportion of these are incorporated under the general law; and if it is conceded that this may be amended to accommodate each separate community, then it must be admitted that the Constitution in that regard has failed to prevent special legislation. If it be impracticable to provide general laws for the efficient and satisfactory government of villages, the sooner that fact is demonstrated the better, perhaps, it will be for all concerned. But the best way to determine the matter is to hold the question to a thoroughly practical test.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 369, NOXIOUS WEEDS, ETC., IN
HIGHWAYS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July* 8, 1881. }

To the Assembly :

Assembly bill No. 369, entitled "An act to amend an act entitled 'An act in relation to noxious weeds and brush in

public highways,' ' is herewith returned without approval.

If explanation of the frequent violations of law be sought, it may be found in part, perhaps, in the needless multiplication of unimportant statutes enacted every year by the Legislature. The accompanying bill affords a striking illustration of this proposition. It decrees that coal ashes, rubbish or refuse of any kind shall not be placed within the limits of any highway ; except that coal ashes may be used for the improvement of sidewalks and highways, with the consent of the highway or street commissioner. In all cities and villages this subject is regulated by local ordinance, hence general legislation is quite unnecessary for the protection of streets or highways therein. In the country districts such a law would unquestionably prove a dead letter, and while thus inoperative it would be constantly violated through ignorance, in most cases, of its existence. If any effect were produced it would be most likely to furnish the cause of neighborhood quarrels. While giving no promise of an improved condition of the highways it would in all probability, if appealed to at all, be only to gratify personal malice against those who unwittingly disregarded its warnings.

To prohibit the use of coal ashes for the improvement of sidewalks and highways except by the consent of the commissioners in charge, would be found not always desirable. Frequently this material may be the very best available for needed improvement, and its use should be encouraged rather than prohibited. Persons willing to improve either sidewalks or highways ought not to be obliged in every case to obtain permission of a highway commissioner before proceeding to execute a praiseworthy purpose. Another objection to this bill is that it introduces into an existing law an amendment not strictly pertinent to its title, thereby obscuring the provisions of this act from the publicity which should be given to all laws.

ALONZO B. CORNELL.

VETO, SENATE BILL, NO. 73, RELEASING TO JOSEPH D. DE GROAT CERTAIN LAND.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, {
ALBANY, *July 8, 1881.* }*To the Senate :*

Senate bill No. 73, entitled "An act to release the interest and title of the people of the State of New York in and to certain real estate in the town of Owego, in the county of Tioga, to Joseph D. De Groat," is herewith returned without approval.

Existing laws provide that upon the filing of certain releases to the State, the owners of lands abutting upon the abandoned Chenango canal extension shall thereupon be vested with the ownership of one-half of the canal lying in front of their premises. This bill proposes to release to Joseph D. De Groat the other half of the canal opposite his premises, and also a strip of land lying between the canal and the Susquehanna river. The construction of a new railroad along the line of the canal renders this strip of land of some especial value, and the supposition is that the title is sought in order that it may be sold to the railroad company. Inasmuch as Mr. De Groat purchased his property since the canal was located, he has no claim whatever to the release it is proposed to grant. If there is any value in the piece of land sought to be acquired it should be realized and applied to reimburse the State, in however small degree, for its original cost. Were this release granted it would form a precedent for the claim of other parties in similar cases along the entire line of the canal, especially where no other property happened to be located between the canal and the Susquehanna river. If a release is granted in this instance no good reason would exist why other claimants should not be treated in the same manner.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 411, FOR RELIEF OF JOHN FOLEY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, } .
ALBANY, *July 8, 1881.* }

To the Senate:

Senate bill No. 411, entitled "An act to provide for the payment to John Foley of his salary as supervisor of the county of New York," is herewith returned without approval.

By the provisions of this bill the Comptroller of the city of New York is required to pay John Foley the salary of a supervisor of the county of New York from 1869 to the first of January, 1874, together with interest on the same to date of payment. The Board of Supervisors of which Mr. Foley claims to have been a member, was abolished on the first Monday of July, 1870. by the operation of chapter 190 of the Laws of that year, and the powers and duties which previously devolved upon the board were by the same act transferred to and vested in a Board of Supervisors composed of the Mayor, Recorder and Aldermen of the city of New York, as thereby created. From and after the first Monday in July, 1870, this new board performed all the duties pertaining to the Board of Supervisors of the county of New York, and was the only recognized board subsequent to that date until 1874. It is, therefore, difficult to see what possible claim Mr. Foley can have for compensation as a member of the old board after the date of its abolition. If, however, the liability were admitted or established in favor of this claimant, every other member of the same board has the same right to claim compensation for the remaining portion of the terms for which they were elected. The city of New York has always been responsible for the payment of all legal claims for services, and ample laws for the enforcement of such claims have been in existence. If Mr. Foley neglected to avail himself of the means available to collect his demand, the fault must rest

entirely with himself. Under the operation of the laws of the State, his claim against the city is now barred by the lapse of time. The Constitution expressly prohibits the Legislature and all other authorities acting on behalf of the State, from auditing, allowing or paying any claim, which, as between citizens of the State, would be barred by existing statutes. Certainly the Legislature cannot be justified in vitalizing a claim against a municipal corporation, which, as made against the State under similar circumstances, would be barred by the Constitution.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED, RELATING TO TRAVEL
ON HIGHWAYS IN FRANKLIN COUNTY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July* 12, 1881. }

To the Assembly :

Assembly bill, not printed, entitled "An act to facilitate travel on the public highways in Franklin county," is herewith returned without approval.

For the better protection of the highways and to facilitate travel thereon it is proposed by this bill to authorize and require the commissioners of highways in the several towns of Franklin county to remove or lay down all fences along any public highway running north and south, except stone walls, between October and April of each year. Numerous objections could be suggested to the provisions of the bill in detail ; but these need not be discussed in view of the general and more prominent one, that legislation of this character should not be enacted by local bill. If the subject requires legislation in any form, sufficient authority should

be conferred upon boards of supervisors to deal with it as occasion may require according to the necessities of different localities.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, NOT PRINTED, TO PAY CERTAIN
EXPENSES OF THE LEGISLATURE.

STATE OF NEW YORK,

EXECUTIVE CHAMBER, }
ALBANY, *July* 12, 1881. }

To the Assembly :

Assembly bill, not printed, entitled "An act making an appropriation to pay certain expenses of the Legislature," is herewith returned without approval.

By the terms of this bill it is proposed to authorize payment for "the services of all counsel appearing before the committee of investigation." In case a legislative committee engages the services of counsel for the benefit of the State, it is eminently proper that suitable compensation should be made. The appearance of counsel before committees in behalf of private parties interested in the subject under consideration is a matter of every day occurrence ; but a proposition that counsel thus appearing should be paid by the State is quite unprecedented, and it can hardly be supposed that the Legislature intended to make such provision. An effort has, therefore, been made to confer with the author of the bill, with a view to its amendment ; but this has proved ineffectual ; and as the time in which the bill might have been withdrawn has expired, no remedy now remains but to return it with the objection stated, which may be met and obviated in another bill should that course be deemed advisable.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 270, TO PREVENT FRAUD IN
SUGAR.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *July 12, 1881.* {*To the Assembly :*

Assembly bill No. 270, entitled "An act to prevent fraud in the manufacture and sale of sugars, syrups, molasses and honey," is herewith returned without approval.

It is evident that this bill, in its present form, has a different meaning, and if approved would have quite a contrary effect from what was intended by the Legislature. The first section provides that sugars, syrups, molasses or honey, containing any mixture of grape sugar or certain other articles, shall be marked by the manufacturers as "mixed sugars," etc. Section two requires that such mixed articles shall be offered and sold as "adulterated," and that they shall be exposed and sold from the original packages marked as provided in the first section. The third section makes all violations of the proposed act misdemeanors, and provides certain penalties for their punishment. It is apparent, therefore, that any failure to make representations at the time of offering the articles for sale, that they are adulterated, would be a misdemeanor. Inasmuch as the manufacturer is simply required to brand the sugars as "mixed," it would seem to be a hardship to require the merchant to represent them as "adulterated," and if by inadvertence or otherwise, he should neglect so to do, the omission would be a punishable offense.

Unquestionably the goods should be offered and sold in accordance with the fact as to their character. If the manufacturer shall be required to brand them as "mixed," why should not the merchant be permitted to sell them as such?

Otherwise it would almost inevitably follow that the law would be constantly, though unintentionally, violated by persons ignorant of the technical provisions of the act. It is fair to assume that the multitude of persons who deal in sugars could hardly be made familiar with the details of such a law, and it would be manifestly unjust to expose them to the dangers of its violation. While affording no valuable protection to the consumers, the proposed act would offer constant opportunity for malicious persons to take advantage of technical offenses, unwittingly committed, which would lead to needless trouble and annoyance.

The Legislature has already enacted a law to prevent the adulteration of food and drugs, being chapter four hundred and seven, of the Laws of eighteen hundred and eighty-one, which is believed to be fully adequate to accomplish all that is designed by the accompanying bill. It would be quite unnecessary, therefore, to permit this bill to become a law, even were it free from the objections stated. The general law is extremely comprehensive in its provisions, and very similar, if not identical with laws of several other States, having been framed after English laws, of recent enactment. The subject of preventing the adulteration of food and medicine has, within recent years, received much attention from intelligent persons, and considerable progress has already been made to promote this desirable object. In view of the effort now in progress to secure uniform legislation in the different States, and from Congress, on the general subject of adulteration, it is believed wiser to postpone for the present further action than has already been adopted.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 272, AMENDING THE CODE OF
CIVIL PROCEDURE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July 12, 1881.* }*To the Assembly :*

Assembly bill No. 272, entitled “ An act to amend section two thousand five hundred and nine of the Code of Civil Procedure,” is herewith returned without approval.

This is a proposition to amend the Code of Civil Procedure by inserting therein a provision requiring the supervisors of each county to fix the compensation of surrogates' clerks at not less than two hundred dollars per annum. Boards of supervisors already have power to fix the compensation of these clerks as well as that of other county officers, when not otherwise regulated by law. The only effect of this amendment, consequently, is to establish a minimum limit to the amount authorized to be paid. If the object were to fix a maximum sum for such purpose, it could be justified as guarding against extravagant expenditure ; but in this case the sole effect appears to be to check the exercise of economy on the part of supervisors. No public necessity is believed to exist for abridging the power of supervisors to direct a frugal administration of affairs within their jurisdiction, while such interference as now proposed would almost inevitably establish a precedent for subsequent action derogatory to the public welfare.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 166, FOR THE RELIEF OF MOSES
KESSEL.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. }
ALBANY, *July* 13, 1881. }*To the Senate :*

Senate bill No. 166, entitled "An act to authorize and direct the Board of Supervisors of Kings county to make suitable provision to reimburse Moses Kessel for all legitimate costs, counsel fees and expenses incurred by him in and about a certain action of *quo warranto* brought against him by the people of the State of New York on the relation of Andrew Zeiser to oust said Moses Kessel from a certain office in the county of Kings known and designated as 'Commissioner of Charities in the county of Kings,' " is herewith returned without approval.

Several measures similar in character to this bill have been returned without approval during the present session of the Legislature. The objections presented in the respective cases apply with equal force to the bill now under consideration. If the policy of reimbursing public officers for expenses incurred in defending their title to office be established, a burden of large magnitude will be put upon the people. In this case the claimant who had received a certificate of election, was ousted by the Supreme Court in an action on *quo warranto*, instituted at the instance of his competitor, who was awarded the office. Subsequently the General Term reversed the judgment of the court under a ruling of the Court of Appeals in a case supposed to be analogous in character. At this period of the controversy the term of office in question had so nearly expired that no interest remained to render further contest worth while. It is maintained, however, by able counsel representing the adverse party, that a review of the case by the Court of Appeals would necessarily have

resulted in the final defeat of this claimant. It has been claimed in support of this bill that laws of like character have been enacted in past years. If mistaken policy has heretofore prevailed, it should not be appealed to as a precedent to excuse other wrongful acts. On the contrary, if errors have been committed in the past, it is the very best reason why a repetition should not occur. In the present case reimbursement would be purely a gratuity in which there is neither equity nor justice. The constitutional prohibition against a city or county giving its money or property to an individual must be regarded as an absolute bar to the enactment of such measures as this.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 101, RELATING TO RIVERSIDE
PARK.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, {
ALBANY, *July 14*, 1881. {

To the Senate:

Senate bill No. 101, entitled "An act to authorize the improvement of Riverside park and certain other parks or places in the city of New York," is herewith returned without approval.

The Commissioners of Public Parks of the city of New York are by this bill authorized and directed to proceed with the improvement and enclosure of Riverside park and two other small parks adjacent to the Broadway boulevard. For this purpose the Comptroller is required to borrow one hundred thousand dollars, to be repaid by taxation in 1882 and 1883. Several million dollars have already been expended in the construction of the Broadway boulevard and the Riverside improvement, both of which are beyond that region of

improvement now occupied for either residences or business purposes. The wisdom of proceeding with additional expenditure on either of these works, in advance of the development of the property in the neighborhood, may well be questioned. In both cases the substantial work of grading, paving and sewerage has been completed. Nothing now remains to be done except the final embellishment of the parks, which may very well await the approach of population and the occupation of contiguous districts.

The Comptroller of the city of New York opposes the enactment of the bill as unwise and unnecessary. He suggests that "the necessity for proceeding with these improvements should be considered and determined by the city authorities who are familiar with the subject. Should it be deemed necessary to improve these parks and public places, the Board of Estimate and Apportionment have authority to provide funds for the purpose. Special acts of this character interfere with the harmonious administration of city affairs by weakening the responsibility of local boards and placing additional burdens upon the city without their approval."

With such expression from the financial officer of the city, it is submitted that this measure should not be permitted to become a law.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 293, RELATING TO TREES AND SHRUBBERY IN LAKE GEORGE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July* 14, 1881. }

To the Senate :

Senate bill No. 293, entitled "An act to amend chapter four hundred and seventy-nine of the laws of eighteen hundred and eighty, entitled 'An act for the better

preservation of trees and shrubbery on the islands in Lake George,''' is herewith returned without approval.

The act of last year on this same subject makes it a misdemeanor for any person to "willfully remove, hack, hew, cut, deface or otherwise injure any tree, shrub or bush now standing *or* growing on any of the islands in Lake George belonging to the State." The amendment proposed by this bill is to substitute the word "and" for "or" where it occurs as shown by the foregoing quotation. The effect of this change would be to annul the prohibition so far as it relates to trees which are standing but not growing. If the original enactment was justifiable, it is difficult to understand the propriety of the proposed change. Trees which have reached their maturity, and therefore not liable to be classified as growing trees, would be quite as likely to invite the attack of trespassers as the growing trees would, and probably more so. If a statute is necessary to protect one class it would seem to be quite as important for the protection of the other.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 431, NEW CAPITOL APPROPRIATION.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *July* 14, 1881.

To the Senate:

Senate bill No. 431, entitled "An act making an appropriation for continuing the work on the exterior walls of the New Capitol building," is herewith returned without approval.

The erection of the New Capitol was commenced under a law providing that the commissioners should not proceed with the work of construction until they were satisfied that the building could be completed in conformity with the plans already

adopted, at a cost not to exceed four million dollars. Carefully prepared estimates were furnished by the architect, and revised by the State Engineer and Surveyor, demonstrating that this important condition could be complied with ; whereupon, the commissioners resolved to proceed with the work entrusted to their direction. Actual experience, however, proved that the calculations were not trustworthy, and that every portion of the work cost more than the estimates provided ; until down to the present time more than twelve millions of dollars have been expended, with the edifice yet very far from completion. Whether the great discrepancy between the original estimates and the results realized is to be accounted for by imperfect and insufficient estimates, or by impeaching the management of the work, it is, perhaps, impossible at this late day to determine.

It cannot be supposed that the New Capitol would have been authorized, had the people any realizing sense of its ultimate cost. When the enterprise was inaugurated the amount named as the limit of expenditure was regarded an ample sum for the purpose designated. The possibility of such extravagant outlay was never contemplated, nor even suspected, until millions of dollars had already been lavished upon the work. Only by slow degrees did the real magnitude of the probable total cost become manifest. Too late then, to recall the investment already made, or materially reduce or modify the rate of expense established to finish the work, nothing remained but to make the best of the misfortune and push the enterprise to completion as rapidly as prudence and propriety would justify. During much of the intervening time the tax payers have been sorely pressed with burdens improvidently thrust upon them. In all the gloomy years of business depression the New Capitol has gone steadily forward. Its progress has never for a single year been interrupted. Liberal appropriations have been made by each successive Legislature,

regardless often of strenuous opposition from the Executive. In order to provide for the completion of that portion of the building containing the apartments designed for the Senate, and the Executive department, the extraordinary sum of sixteen hundred thousand dollars was appropriated last year. The accommodations planned for the use of the principal departments of the government having been substantially completed, no exigency demands the prosecution of work on the remaining portions of the edifice faster than moderate appropriations will allow.

The present Legislature has heretofore appropriated one million dollars, which it is supposed will be ample to bring the entire front of the building into use. Hence the accompanying bill making an appropriation of five hundred thousand dollars more to continue the work, does not supply any public necessity. Nothing in the condition of the building renders such a provision advantageous or desirable to the interests of the State. The commissioners in charge have made no recommendation of an additional expenditure for the current year ; and there has been no expression of public sentiment that calls for greater progress than existing appropriations will abundantly meet. The annual tax levy has already been enacted to provide for expenditures heretofore authorized, and the financial officers have no prospective resources from which to satisfy the demands of this bill, except by pledging the credit of the State. Such proceeding could only be justified in the presence of a grave public emergency, which, fortunately, does not now exist.

If the supply of labor exceeded the general demand, the situation might be different ; and other considerations would in that case properly influence the disposition of the question. An enlarged appropriation might thus be defended for the double purpose of furnishing employment for industrious men, and forwarding the work economically. But there is

nothing in the present condition of affairs to warrant an increase of public expenditures for either of these objects. Labor is now in great demand, particularly for building purposes. Never, probably, in the history of the country, was more building in progress than during the current year ; and unprecedented activity prevails in almost every other branch of industry. With this favorable opportunity for obtaining employment the men who have been so generously sustained by the State during the years when their services were much less in request than now, cannot reasonably ask or expect that untimely or extraordinary appropriations shall be made for their particular benefit, regardless of all other interests.

Differing so widely from the judgment of the Legislature in a matter of such magnitude, is cause of sincere regret ; yet, being convinced that neither sound policy nor public necessity will justify the enactment of this measure, no other course remains for me, in the conscientious discharge of official responsibility, than to return the bill without approval.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 561, IN RELATION TO RECLAIMING
LANDS FROM THE STATE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July 14, 1881.* }

To the Assembly :

Assembly bill No. 561, entitled "An act authorizing the commissioners of the land office to grant and convey the interest of the people of this State in and to lands sold for taxes," is herewith returned without approval.

This is a proposition to authorize the commissioners of the land office, in their discretion, to sell to the former owners, or their heirs or grantees, lands bought in by the Comptroller

for taxes, upon payment into the treasury of the amount due the State, or such further sum as such commissioners shall deem just, not exceeding ten per cent of the amount due. The commissioners already possess and are accustomed to exercise all of the authority granted by this bill except the proposed limit, which in many cases might prove grossly unjust to the State. Lands bought in by the Comptroller are not subject to taxation, hence the proposed terms would enable persons to surrender their lands to the State, to be carried free of taxation until they were ready to redeem, when the only compensation the State could receive in lieu of taxes would be the ten per cent advance. After the period of redemption has expired, the practice of the commissioners is to sell the lands, upon appraisement, always giving to the former owners, or their representatives, the preference over other purchasers.

Much the greater proportion of lands sold for taxes is located in the region covered by the great northern wilderness. Throughout all that part of the State an appreciation in the value of land is constantly advancing in consequence of the large and increasing influx of summer visitors. In cases where the State has carried parcels of land without taxation for a number of years, it should, at least, be made good for the amount of revenue thus lost. The limitation which the accompanying bill proposes would often deprive the State of the right to reimburse itself which it now enjoys. Neither good policy nor common justice will justify the enactment of a measure of this character.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 407, CHANGING GRADES OF CERTAIN
STREETS IN THE CITY OF NEW YORK.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *July 21, 1881.* }*To the Senate:*

Senate bill No. 407, entitled "An act in relation to changing the present grades and establishing new grades for certain streets in the city of New York," is herewith returned without approval.

The commissioner of public works of the city of New York is by this bill authorized, within six months, to change the present grades and establish new grades for the streets between Eighty-fourth and Ninety-sixth streets, and the Boulevard and the Hudson river. He is required to file a map showing the new grades, which shall thereupon become the lawful grades of the several streets embraced within the limits named. The second section of the bill provides that "the Commissioner of Public Works shall have power immediately thereafter to proceed to regulate, grade, curb and flag such streets in accordance with the grades so established." Whatever necessity or justification there may be for changing the grades of the prospective streets is not apparent, but it is entirely clear that the commissioner should not be vested with this extraordinary power to open and work several miles of streets regardless, perhaps, of the wishes of the owners of the property. For all ordinary purposes the general laws in reference to street openings in New York city are quite adequate, and should be observed, unless in exceptional cases where it is demonstrated that special legislation is necessary to promote the public welfare.

It is also respectfully submitted that the title of the bill is not in conformity with the constitutional requirement

with reference to local bills. The sixteenth section of article three of the Constitution provides that "no private or local bill which may be passed by the Legislature shall embrace more than one subject, and that shall be expressed in the title." Possibly this bill only embraces what would be deemed "one subject," according to the meaning that phrase was intended to convey; but it is clear that the title does not express the object of the bill. Indeed, by far the most important part of the bill is not expressed in the title, while even that portion which is expressed, seems too general and indefinite. The title contains not a word in regard to authorizing the commissioner to "regulate, grade, curb and flag" the streets in question, and nothing from which such authority could be derived or inferred.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 704, RELATING TO ILLUMINATING
OILS AND FLUIDS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *July* 21, 1881. }

To the Assembly:

Assembly bill No. 704, entitled "An act to regulate the standard of illuminating oils and fluids for the better protection of life, health and property," is herewith returned without approval.

This bill provides that there shall not be manufactured or sold within the State, for illuminating or heating purposes, oil or burning fluid, which shall emit an inflammable vapor that will flash at a temperature below one hundred degrees Fahrenheit; and that no such substance which will ignite at a temperature below three hundred degrees shall be used or carried in any passenger or baggage car or passenger boat. It

further provides for the appointment of a State inspector, and not more than twenty-five deputy inspectors of illuminating oils ; and that no oil or burning fluid shall be permitted to be sold within the State, which shall not have been duly inspected and branded by the inspectors. Thus a complicated system of official machinery is to be created for the purpose of inspecting an article of merchandise in common use, whether the same come below the standard of prohibition or not. Oils that are perfectly safe are to be subjected to inspection the same as those that are dangerous on account of their explosive character.

The eighth section of article five of the Constitution declares that "all offices for the weighing, gauging, measuring, culling or inspecting of any merchandise, produce, manufacture or commodity whatever, are hereby abolished, and no such office shall hereafter be created by law ; but nothing in this section contained, shall abrogate any office created for the purpose of protecting the public health * * *" There can be no doubt that this constitutional provision effectually prohibits the creation of any office for the inspection of any article of merchandise or manufacture which does not endanger the public health. It can hardly be maintained that safe oils must be inspected simply because unsafe oils are sometimes manufactured and offered for sale. To avoid the foregoing constitutional prohibition the inspection must of necessity be based upon the proviso in behalf of the public health. It seems clear, therefore, that the inspection of oils ought to be confined to such as are fairly presumed to be dangerous.

It is eminently proper that a safe standard of illuminating oils should be established by law, and the sale of such as do not conform to the standard should be prohibited under severe penalties. Beyond this a system of examination of dangerous oils might, very properly, be provided, with authority to make inspections in all cases where, by allegation or other-

wise, reasonable suspicion as to the dangerous character of oils is entertained. Manufacturers should be required to brand their product according to its quality, and be held to rigid accountability therefor. If experience proved further precaution necessary, manufacturers within the State and agents for the sale of oils manufactured beyond its borders, could be licensed and required to give bonds to guarantee the character of their respective products.

The system of inspection proposed by the accompanying bill would inevitably prove obnoxious to large numbers of persons who are now accustomed to deal in the articles in question. Even if this measure were free from doubt as to its constitutionality, there might be very serious question as to the wisdom of hampering trade with all the complicated details which the operation of the proposed law would entail. The true principle of government requires the utmost freedom from restraint consistent with good order and the safety of community. Care should be taken to avoid, as far as possible, the creation of new offices ; more especially such as would be likely to give undue annoyance to the people.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 129, ALLOWING ALIENS TO PURCHASE AND HOLD LAND.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,)
ALBANY, *July 23*, 1881. (

To the Senate :

Senate bill No. 129, entitled "An act to authorize aliens to purchase and hold real estate in this State," is herewith returned without approval.

This bill proposes to establish a new policy in regard to allowing aliens to acquire, hold and convey real estate within

this State. Heretofore it has been deemed necessary to act upon each separate case by legislation, and a general rule has obtained, of granting a release as a matter of course, where title has come to the State by reason of the alienage of parties interested. It is now proposed that aliens to whom lands may have descended from any ancestor or may hereafter so descend, or to whom lands may have been or may hereafter be devised, shall have, hold and convey the same, to all intents and purposes, as any natural born citizen may do. The title of the bill also proposes to authorize aliens to purchase real estate, but such authority is not granted by the terms of the bill. This feature was contained in the printed bill, but appears to have been stricken out by the Legislature in its consideration of the measure, without having corrected the form of the title.

It is manifest, therefore, that the Legislature deemed it unwise to grant the general privilege of allowing aliens to purchase lands. Assuming this to be its deliberate judgment, it is difficult to understand the policy of granting the limited authority contained in the bill as it now stands. Certain advantages would doubtless follow the enactment of a law authorizing the purchase of lands by aliens, and these would have the effect to induce the investment of foreign capital. In cases where such purchases result in the improvement of property, obvious benefits would accrue to the State; but where only the holding of property for speculative purposes should occur, the contrary effect would follow. It seems clear, however, that so long as this branch of the subject remains for legislation, as occasion may require, it is better that the whole question should continue at the disposal of the same authority.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 322, FOR THE RELIEF OF BABETTE
STEMMLER.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July 23, 1881.* }*To the Senate :*

Senate bill No. 322, entitled "An act for the relief of Babette Stemmler," is herewith returned without approval.

At the general election in 1869 one McGuire was declared elected Justice of the Seventh District Court in the city of New York. He was awarded the certificate of election and entered upon the duties of the office, discharging the same during a period of more than three years. His election was contested in the courts by his competitor, Stemmler, who finally obtained judicial decision in his favor and succeeded to the office in 1873. The facts developed on the trial of the case clearly demonstrated the fraudulent character of McGuire's title to the office ; and gross injustice was suffered by Stemmler in subjecting him to a prolonged and vexatious contest to establish his rights. In a suit to recover the salary Stemmler secured a judgment against McGuire ; but the latter proved irresponsible, and collection was found to be impossible. The object of this bill is to direct the Comptroller of the city of New York to pay Stemmler's widow an amount equivalent to the salary which was paid to McGuire while acting as justice *de facto* from January 1, 1870, to July 31, 1873. If either a legal or equitable claim could be established against the city in this case, it would be competent for the Legislature to grant the relief sought. Unfortunately, however, reimbursement in cases of this character can only be regarded as gratuities, and, therefore, repugnant to that provision of the Constitution which prohibits the giving of the money or property of any county or city to an individual.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH PENAL CODE, APPROVED.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, July 26, 1881. }

Memorandum filed with Assembly bill No. 63, entitled "An act to establish a Penal Code." Duly approved.

This bill reached the Executive Chamber on the last day but one of the legislative session ; too late, therefore, to afford sufficient opportunity for an intelligent consideration of its provisions in detail, before the final adjournment. A careful examination since, develops a number of objections to certain sections which evidently need amendment. Had the bill come to my attention in time to have received further consideration by the Legislature, these undesirable features would have been pointed out with a view to their correction. The only alternative now remaining is to approve the measure as a whole and trust to future legislation for the proper amendments, or to reject it entirely.

Inasmuch as the bill, if approved, will not take effect until May, 1, 1882, ample time during the next legislative session will be available for the consideration and adoption of necessary and desirable amendments, before any of its provisions become operative. In general the bill seems highly meritorious, and is warmly approved by the legal profession as supplying a want long felt in the administration of the criminal statutes. Considering the question in all its bearing, the wiser course appears to be in favor of the approval of the bill in its present form, depending on the next Legislature to perfect it in such manner as in their wisdom may seem best.

ALONZO B. CORNELL.

THE YORKTOWN CELEBRATION—THE COMMISSION TO MEET
FOREIGN DELEGATIONS APPOINTED.STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

In accordance with resolutions adopted by the Senate of the State of New York, June 21, 1881, providing that “the Governor be and hereby is authorized to extend the courtesies of the State in such manner as he may deem wise and proper, to the delegation of the French government, the family of Lafayette, the descendants of the Marquis de Rochambeau, the Count de Grasse, and of such other general officers of the French army and fleet who served in the Yorktown campaign, as may visit the United States during the present summer ;” and further that “the Governor be and is hereby empowered to call to his aid such of the citizens of the State as he may select, to assist in the reception and entertainment of these honored guests ;”

Therefore, The following named persons, citizens of the State of New York, are hereby designated, chosen and duly constituted, pursuant to the authority expressed, to take suitable action on the part of this State, for the reception of, and to extend the hospitalities of the State to, the delegation of distinguished personages mentioned, and such others as may be delegated or invited to visit the United States for the purpose of attending, or taking part in, the forthcoming celebration at Yorktown, Virginia, in the month of October next ensuing: John A. King, Frederick W. Seward, Hamilton Fish, Jr., William W. Astor, Cornelius Vanderbilt, Robert Ray Hamilton, William Jay, Lloyd Aspinwall, Horace Russell, Alfred C. Barnes, James M. Varnum, Robert E. Livingston, Francis C. Barlow, John Austin Stevens, William Rhinelander Stewart.

Given under my hand and the Privy Seal of the State,
at the Capitol in the city of Albany, this nine-

[L. s.] teenth day of August, in the year of our Lord
one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

PROCLAMATION — DAY OF FASTING AND PRAYER FOR THE
RESTORATION OF THE PRESIDENT.

PROCLAMATION :

STATE OF NEW YORK, {
EXECUTIVE CHAMBER. }

For the purpose of enabling the people to unite with those of other States in petitioning the Ruler of the Universe for the restoration to health of the President of the United States, Thursday, the eighth day of September, instant, is hereby set apart and designated as a day of fasting and prayer.

It is recommended that all ordinary vocations be suspended, and the people in their usual places of worship, humbly acknowledge their faults and reverently supplicate the mercy of the Heavenly Father that the national peril, which now appears so imminent, may be averted. Let the prayers of all be united for the early and complete recovery of the President's health and strength. May the blessing of Almighty God rest upon the stricken sufferer and the afflicted family.

Given under my hand and the Privy Seal of the State,
[L. s.] at the Capitol, in the city of Albany, this sixth
day of September, A. D. 1881.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

PROCLAMATION — REWARD FOR ARREST OF MURDERER OF
MARK DUERDEN.

PROCLAMATION :

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

Whereas, It has been made known to me that on or about the twenty-second day of August, 1881, at the city of Cohoes, county of Albany, a felonious assault with a pistol was made upon one Mark Duerden by one Patrick Gwynn, and from wounds then and there inflicted the said Duerden subsequently died ; and

Whereas, The said Patrick Gwynn has fled from justice, and has not been apprehended ;

Now, Therefore, A reward of five hundred dollars is hereby offered, to be paid to any person or persons who shall cause the arrest and delivery to the proper authorities of the said Patrick Gwynn, to the end that he may be held for trial.

Given under my hand and the Privy Seal of the State, at
[L. S.] the Capitol, in the city of Albany, this twelfth
day of September, A. D. 1881.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

TO MAYOR OF CITY OF NEW YORK — DISAPPROVING CERTIFICATE OF REMOVAL OF POLICE COMMISSIONERS OF SAID CITY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *September 13, 1881.* }

SIR: Your letter of date, 22nd August, was duly received, enclosing certificates of removal of Stephen B. French, Joel W. Mason and Sidney P. Nichols, from the office of Police Commissioner of the city of New York, for “knowingly and willfully, during the period from the 24th day of November, 1880, until the 23rd day of March, 1881, failing to well and truly do and perform the duties imposed upon them as such Police Commissioners by section 1 of chapter 677 of the laws of 1872, and the acts amendatory thereof and supplementary thereto.”

Deeming it essential to the good government of the great city of which you are the chief executive officer, that your official authority should be sustained in all proper manner, it is my earnest desire to co-operate with you in every effort to promote economy and efficiency in municipal affairs. It is, therefore, an unwelcome duty on the occasion of your first appeal for executive approval, to advise you that a careful and impartial examination of the cases presented for consideration, raises in my mind serious doubt as to the correctness of your conclusion in regard to them.

From the papers submitted, it appears that the proceeding upon which the proposed removal of these officers is based was initiated by you on the second day of April last. At that date, and until chapter 677 of the Laws of 1872 was repealed, you had undoubted jurisdiction under that statute; and if the removal had been effected during its existence, the only question for consideration would have been as to the sufficiency of the alleged cause. In the present instance,

however, it becomes necessary to consider whether the repeal of the law changed your authority in the matter.

The charter of the city of New York provides that "the heads of departments * * * may be removed by the Mayor for cause, and after opportunity to be heard ; subject, however, before such removal shall take effect, to the approval of the Governor expressed in writing." This language obviously means that the officers named may be removed for some actually existing cause, and not otherwise. The only cause for removal stated in your certificate is that of neglect of duty imposed by chapter 677 of the Laws of 1872 ; and inasmuch as that statute was repealed by legislative enactment on the 26th day of May last, the question arises whether there now exists such cause for removal as the charter contemplates.

The decisions of the courts in regard to repealed laws are, as a rule, uniform in treating them as though expunged from the record. The language of the courts in such cases is very clear and emphatic, containing such expressions as these : "The repeal blots out the old statute." * * * "It is as if it never was." * * * "What has been done under it cannot be assailed." Assuming that judicial decisions in analogous cases should be accepted as the true solution of the question at issue, the conclusion seems irresistible that the repeal of the statute which imposed the duties alleged to have been neglected, in effect cancelled all offenses committed thereunder.

The Police Commissioners were charged with separate and distinct duties under two different laws, one statute requiring them to clean the streets, the other to maintain the peace and order of the city. Supposing, instead of being charged with the duty of cleaning the streets, as *ex officio* officers, the same persons had held two separate offices — one as Commissioners of Street-Cleaning, and the other as Police Commis-

sioners — can it be pretended that under charges of neglect of duty as Street Commissioners, they could be removed from the office of Police Commissioner? The cause alleged would only apply to the office whose duties were proved to have been neglected.

It seems to me clear, under all the circumstances of the case, that the cause for removal named in your certificate must be considered as having been annulled by the repeal of the statute under which the alleged neglect of duty occurred. In other words, the Legislature having relieved these officers from the duty of cleaning the streets, and, in creating another department for this purpose, repealed the law under which the accused officials formerly acted, you cannot now remove them from the office of Police Commissioner which they hold under an entirely different act, for alleged neglect of duty under the repealed law.

Yours, respectfully,

ALONZO B. CORNELL.

The Hon. WILLIAM R. GRACE, *Mayor of New York*.

PROCLAMATION — ON THE DEATH OF JAMES A. GARFIELD,
PRESIDENT OF THE UNITED STATES.

PROCLAMATION :

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

By a mysterious dispensation of the Divine Ruler, the people of this State and of our common country, are called to mourn the untimely death of the Chief Magistrate of the nation. The chosen leader of fifty millions of people, so recently endowed with his great trust, mortally wounded, has finally succumbed, after long weeks of pain and suffering, in

the struggle with Death. Again the cruel hand of the assassin has done its murderous work, and covered this fair land with symbols of grief. Profound sorrow and all-pervading sense of personal bereavement are everywhere manifested by emblems of mourning. Every heart is oppressed, and throbs in tender sympathy with the bereaved family in their terrible affliction. No discordant voice is heard in all the land. Every tongue is joined in expression of condemnation of the murderous act; and all unite in sorrowful submission to the awful calamity that has overtaken a peaceful people in a period of exceptional prosperity and tranquility.

That the day of the final obsequies of the lamented President may be appropriately observed in this State, Monday, the twenty-sixth day of September instant, is hereby designated and appointed as a day of fasting and prayer. It is therefore recommended that all business be then suspended, and that fitting religious exercises be held in honor and memory of the departed. Let fervent and sincere prayer ascend to the Throne of Grace for the comfort and support of the afflicted relatives; for the peace and welfare of the country, and also, for the preservation and guidance of the newly installed President.

In witness whereof I have hereunto subscribed my name
and affixed the Privy Seal, at the Capitol in the
[L. S.] city of Albany, this twenty-first day of September,
in the year of our Lord eighteen hundred
and eighty-one.

ALONZO B. CORNELL.

By the Governor:

HENRY E. ABELL,

Private Secretary.

ORDER—RELATING TO CERTAIN NUISANCES NEAR HUNTER'S POINT, LONG ISLAND.

EDWARD CLARK, EDWARD CLARK, JR., *and others whom it may concern, Manufacturers and Dealers in Superphosphates, or other Fertilizers, 17th Ward, near Hunter's Point, Brooklyn, Kings Co., N. Y. :*

Take notice, that by a proclamation issued by me on the twenty-second day of April last, for the suppression of certain nuisances detrimental and dangerous to the public health, situate and existing in the counties of Kings and Queens, near or upon Newtown Creek, or thereabouts, it was duly ordered that the matters and things therein described and declared to be public nuisances, as certified by the State Board of Health, be prevented, removed or abated on or before the day therein stated and determined, to-wit, the first day of June, 1881. And, whereas, complaint has been to me made that the aforesaid proclamation has been, and now is, by you, severally and individually, disregarded and put to naught, and that the offensive operations conducted by you, and declared to be nuisances, have not been, to this day, prevented, removed or abated. Now, therefore, it is hereby directed and ordered, by virtue of the power in me vested by chapter 322 of the Laws of this State, passed May eighteen, 1880, that the things complained of, done and maintained by you, as detrimental to the public health, so declared to be nuisances, as in the proclamation aforesaid set forth, in the business of conveying to or upon certain premises by you held and occupied at or near the bank of Newtown creek, in the county of Kings, and maintaining on the said premises certain substances known as sludge acid or other offensive material employed in the manufacture of superphosphate fertilizers, or otherwise, the same being exposed, kept, moved or manipulated in a manner injurious to life and health, be without delay, and immediately, removed, abated or pre-

vented. In default whereof, measures will be taken as for violation of the laws for the protection of the public health, and as against nuisances.

Done at the Capitol, in the city of Albany, this twenty-
[L. S.] fourth day of September, in the year of our
Lord one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

ORDER — RELATING TO CERTAIN NUISANCES AT LONG
ISLAND CITY.

To WILLIAMS, CLARK & Co., or others whom it may concern,
Manufacturers of Superphosphates, or other Fertilizers.
foot of Eighth street, Long Island City, Queens County,
N. Y. :

Take notice, that by a proclamation issued by me on the twenty-second day of April last, for the suppression of certain nuisances detrimental and dangerous to the public health, situate and existing in the counties of Kings and Queens, near or upon Newtown creek, or thereabouts, it was duly ordered that the matters and things therein described and declared to be public nuisances, as certified by the State Board of Health, be prevented, removed or abated on or before the day therein stated and determined, to wit: the first day of June, 1881 ;

And, whereas, complaint has been made that the aforesaid proclamation, a copy of which is herein inclosed, has been, and now is, by you severally and individually, disregarded,

and put to naught, and that the offensive operations conducted by you on the premises herein as near as may be described, and declared to be nuisances as aforesaid, have not been, to this day, prevented, removed or abated, as ordered in said proclamation ;

Now, therefore, it is hereby directed and ordered by virtue of the power in me vested by chapter 322 of the Laws of this State, passed May 18, 1880, that the things complained of, done and maintained by you, as detrimental to the public health, and so declared to be nuisances, as in the proclamation aforesaid set forth, in the manufacture of superphosphate fertilizers at or near the foot of Eighth street, Long Island City, county of Queens, N. Y., or thereabouts, upon or within structures or inclosures extending from the East river to or near West avenue, in said city, be without delay, and immediately, removed, abated or prevented by you. In default whereof, measures will be taken as for violations of the law for the protection of the public health, and as against public nuisances.

Done at the Capitol, in the city of Albany, this twenty-
[L. s.] fourth day of September, in the year of our
Lord one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

OPENING OF EXECUTIVE CHAMBER, NEW CAPITOL.

At the hour of ten o'clock and forty-five minutes A. M., September 29, 1881, the Executive Chamber in the New Capitol was formally opened and taken possession of by the Governor for the transaction of public business.

ALONZO B. CORNELL, *Governor*.

HENRY E. ABELL, *Private Secretary*.

EDWARD MIGGAEL, *Executive Clerk*.

THOMAS NEWCOMB, *Executive Clerk*.

SAMUEL A. LAW, *Executive Clerk*.

WILLIAM C. HUMPHREY, *Stenographer*.

STEPHEN A. SMITH, *Military Messenger*.

THOMAS H. BROWN, *Executive Officers' Messenger*.

PROCLAMATION — REWARD FOR THE ARREST OF THE MURDERER OF MOSHER BURNHAM.

PROCLAMATION:

STATE OF NEW YORK, {
EXECUTIVE CHAMBER. }

Whereas, It has come to my knowledge that Mosher Burnham, a police officer of the village of Lansingburgh, county of Rensselaer, was brutally murdered by some person or persons unknown, at an early hour on the morning of October 23d instant, while in the performance of his duty in said village. Now, therefore, a reward of five hundred dollars is hereby offered to be paid to any person who shall cause the arrest and conviction of the party or parties who committed the murder of the said Mosher Burnham.

Given under my hand and the Privy seal of the State, at the Capitol in the city of Albany, this thirty-
[L. S.] first day of October, in the year of our Lord one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor:

HENRY E. ABELL,

Private Secretary.

ORDER CONCERNING ABANDONED GENESEE VALLEY CANAL.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

To the President and Directors of the Genesee Valley Canal Railroad Company, and others whom it may concern :

Complaint having been made to me of the condition of the abandoned Genesee Valley canal, — its banks and prism, — which has come into your possession and ownership for railroad purposes, as affecting injuriously the public health, and as dangerous to life ; which said complaint having been duly referred to the State Board of Health for examination, and the said State Board of Health having fully inquired into the facts, and made report thereon, declaring, among other things, “ that they find the late Genesee Valley canal at various places between Scottsville, in the county of Monroe, and Kashaqua creek, or the Shakers, so-called, in the county of Livingston, is a nuisance, and that it should be speedily well drained, so that it shall cease to be a source of miasmatic disease ; ”

Now, therefore, in accordance with the statutes in such case made and provided, and the authority conferred by chapter 322, section 8, of the Laws of 1880, the matters and things found and certified by the State Board of Health, as to the condition of the abandoned Genesee Valley canal, — its banks and prism, — are hereby declared to be a public nuisance ; and the same is hereby ordered to be changed, abated or removed by the Genesee Valley Canal Railroad Company, its President and directors, as herein more specifically set forth, to wit : That the said abandoned canal be drained for the distance of twenty-nine miles, lying between Scottsville, in the county of Monroe, and Sonyea, or Kashaqua creek, at the aqueduct by the Shakers, in the town of Groveland, county of Livingston, as marked in the schedule of the

canal levels herein described, viz. :

Table showing relative lengths of Genesee Valley Canal containing stagnant water between Scottsville and Sonyea :

SECTION.	Total Length. Miles.	Length containing water. Miles.	Length comparatively dry. Miles.	REMARKS.
From lock No. 3 to lock No. 4..	8.64	7.40	1.24	Scottsville to Canawaugus.
From lock No. 4 to lock No. 5..	2.10	0.10	2.00	Canawaugus to Sackett's basin.
From lock No. 5 to lock No. 6..	5.10	3.00	2.10	Sackett's basin, south.
From lock No. 6 to lock No. 7..	8.16	3.16	5.00	Piffardinia and Cuylerville level.
From lock No. 7 to lock No. 8..	1.00	1.00	.....	Genesee river, north.
From Mt. Morris to Sonyea....	4.00	3.00	1.00	Genesee river to Kashaqua creek.
Total.....	29.00	17.66	11.34	Miles.

That such drainage be so made as to remove and hereafter prevent the accumulation of water or silt where found constantly covering the bottom of the canal prism, and that such drainage be made in the most feasible and practicable manner possible, according to the condition of the case in the locality to be drained. And it is further ordered that the natural streams, valleys and ravines near to or crossing the said abandoned canal be so kept clear of obstructions at and within the abandoned canal limit as not to produce stagnant ponds or silt, to the detriment of the public health ; all of which drainage and other work attendant upon the removal of the matters and things complained of, to be made and done before the first day of April, 1882. In all and singular respects as to which work for the removal or abatement of the nuisance hereinbefore referred to, the State Board of Health, and Superintendent of the Public Works, will, where practicable, co-operate.

Given under my hand and the Privy Seal of the State, at the Capitol, in the city of Albany, this first day
 [L. s.] of November, in the year of our Lord one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

PROCLAMATION—APPOINTING A DAY OF THANKSGIVING.

PROCLAMATION.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

With gratitude to our Heavenly Father for His continued protection and the many manifestations of Divine favor bestowed upon the people of this State, Thursday, the twenty-fourth day of November, instant, is hereby designated and set apart as a day of Thanksgiving to Him for the measure of prosperity which has attended us during the year now rapidly drawing to a close.

Although the parched earth has withheld a portion of its usually generous production, yet careful cultivation has been reasonably remunerated, and the garnered harvests will amply supply the necessities of those dependent upon them. Commercial and industrial pursuits have continued to enjoy exceptional prosperity; labor has been well employed and fairly compensated; a good condition of public health has prevailed; while idleness and want have never, perhaps, been less observed or known in our midst. Despite a great National calamity, by which the chosen ruler of the country has been removed through assassination, the public peace has been undisturbed, and the laws have been generally respected.

Gratefully appreciating all the mercies vouchsafed unto us, and realizing our entire dependence upon Almighty God for the continuance of life and happiness, it is recommended that on the day hereby designated the people of this State suspend all secular pursuits, and, assembled in their usual places of worship, humbly acknowledge their indebtedness to Him for the blessings enjoyed during the past year. Let the day also be improved by the gathering together of families in bonds of affection. May friendships be renewed and all enmities for-

gotten ; while the poor and sick, the afflicted and unfortunate should be generously remembered.

Done at the Capitol, in the city of Albany, this fourth
[L. S.] day of November, in the year of our Lord one
thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELI,

Private Secretary.

HOUSE OF REFUGE FOR WOMEN, COMMUNICATION TO
MANAGERS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, *November 21, 1881.* }

SIR : Referring to the report of the Board of Managers of the State House of Refuge for Women, announcing the selection of Hudson as the location of the proposed institution, and requesting the appointment of a Superintendent of Construction, some further information is desired.

At a conference between some of the members of your board and myself in August last, it was stated that the managers were convinced that the present appropriation was quite inadequate for the purpose designed, and that a much larger sum would be required. It was then suggested by me that under such circumstances it would be unwise for the managers to commit themselves to any expenditure until they should report the facts to the Legislature and secure a definite expression of its views as to the proper limit of cost to be contemplated in the plans. The unfortunate experience of the State in the erection of public buildings should serve

as a warning against the repetition of similar results in the future.

Careful reading of the statute under which your board has an existence, indicates that the appropriation made therein was intended to provide a completed establishment ready for actual occupation. To begin the expenditure of the present appropriation with any plan that shall require for its consummation additional appropriations, would, in my opinion, be an inexcusable violation of the trust placed in the keeping of your board. No act of mine shall commit the State to the expenditure of a single dollar beyond what is now, or may hereafter be, provided by the Legislature.

If your board is still of the opinion that the institution cannot be substantially completed and made ready for use with the existing appropriation, no further steps should be taken until the Legislature indicates a disposition to favor a greater expenditure than was contemplated by the appropriation of last winter.

Awaiting the views of your board on this subject before acting on the question submitted, believe me,

With great respect, yours very truly,

ALONZO B. CORNELL.

Hon. EDWARD CLARK, *President of the Board of Managers
New York State House of Refuge for Women, New
York city.*

ORDER — DISMISSING CHARGES AGAINST EDWARD MURPHY,
JR., MAYOR OF THE CITY OF TROY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *December 20, 1881.* }*In the Matter of the Charges against EDWARD MURPHY, JR.,
Mayor of the City of Troy:*

Edward Murphy, Jr., Mayor of the city of Troy, is charged with malfeasance in office, in having prepared and caused to be served an order suspending Elisha W. Hydorn from the office of Police Commissioner of said city; which order, it is alleged, the said Murphy had no authority as Mayor, or otherwise, to make; but that the same was made and served with illegal, wilful and corrupt purpose, and, with the aid of confederates, to prevent the said Hydorn from discharging certain duties devolving upon him as said Police Commissioner; thereby defeating the aim and object of the law relating to the police force of the city of Troy. Allegations collateral to the main charge, and embodied in the general specifications to the complaint, are also made; but these relate more particularly to the motives believed, and therefore alleged, to have induced the action of the Mayor as complained.

A copy of the charges having, as in such case provided, been furnished the accused, the said Mayor made answer to the same, admitting that he issued the order of suspension as alleged, but denying that he did so for a corrupt and wilful purpose; and averring that, on the contrary, in so doing he acted in good faith and belief as for the best interest of the city; and further, that he did not make such order until advised by the City Attorney, who is the legal adviser of the respondent, that he had full right and authority, as it was also his duty, so to do.

In view of the complications liable to arise from the ques-

tions at issue, and in view also of the deep interest manifested in the case by citizens of Troy, it seemed expedient and necessary that thorough and complete investigation of the facts involved be made. Accordingly, therefore, a Commissioner was designated by me to take testimony ; and the report of said Commissioner, containing more than two hundred printed pages, having been submitted, a patient and careful examination thereof, together with a full and impartial hearing of counsel representing both sides, leads me to the following conclusion :

Whether the Mayor of Troy has lawful authority to suspend a Police Commissioner or not, depends on what is regarded the proper construction of chapter 76 of the Laws of 1881, in so far as that act affects or repeals chapter 30 of the Laws of 1880. The last-mentioned act gives the Mayor power to suspend any city officer for misconduct in office or neglect of duty, the cause of such suspension to be stated in the order ; whereupon the Mayor shall within ten days, convene the Common Council, and if the charges be sustained by them, the officer accused may be removed by a two-thirds vote of said Council. Such was the mode for suspension and removal prior to the act of 1881. The statute now provides that Police Commissioners may be removed for cause by the Supreme Court, to which sole and exclusive jurisdiction over the subject of removal is given. No reference is made, however, in terms, to the power of suspension ; hence, whether it yet remains with the Mayor or not, must be determined under rules of construction, by section six of the same act, which provides that "all acts and parts of acts inconsistent with or repugnant to this act are hereby repealed." It was probably the intent of the Legislature to deprive the Mayor of all power to interfere with the official tenure of Police Commissioners, but inasmuch as the question of suspension in the particular case under consideration, is now awaiting judicial decision, on a motion pending

in the Supreme Court, respectful deference to that tribunal dictates that the issue raised should be left with the courts for adjudication. However, be the determination as it may, it must be conceded that when the Mayor took action against Hydorn, the question of authority was a fairly debatable one, and argument, not without force, was urged in support of his right to suspend. The proof is certainly clear, and not contradicted, that the City Attorney advised it, and from all that has been elicited, it would appear that the Mayor believed he was acting in pursuance of law. It is perhaps neither a wise nor safe rule that the advice of counsel excuses acts, in all cases, that exceed or violate law ; but in a matter where the statute provides counsel to aid a public officer in the performance of his duty, it may be held that responsibility does not apply with the same force ; provided, especially, no conspiracy be established ; and, in this particular of the case considered, the prosecution failed. It seems to be fairly established by evidence that if the Mayor did possess the power of suspension, there was reasonable justification for proceeding against Hydorn, in his having neglected to deposit funds in the city treasury which had been received by him as Excise Commissioner. If, as claimed, the Mayor exceeded his authority, then, in that case, the attempted suspension of Hydorn was void and of no effect, and the status of that officer was not affected. Considered alone, the order of suspension was comparatively of minor consequence. The most objectionable or suspicious feature of the proceeding was in the time selected for its occurrence. By the terms of chapter 362 of the Laws of 1881, the Police Commissioners were required to meet on the 28th day of May, at 10 o'clock in the forenoon, and appoint a police force for the city of Troy, the classes and number of officers to be chosen being duly enumerated. The Board of Commissioners was evenly balanced politically; and an equal division of the appointments

to be made was evidently intended by the Legislature. By a singular coincidence at least, the Mayor's order was served on Hydorn at the very moment when the board met to make these appointments. If the Mayor's act was legal, the effect of the suspension at that particular time was to create a vacancy in the board, thus-leaving the political friends of the Mayor in the majority, and able to control the appointments in question. Whether Mayor Murphy was well advised, and technically right or not, the unexpected and mischievous effect of his action cannot be too severely condemned.

For years past the municipal government of Troy has been far from creditable; and its partisan police, by abuse of law and disregard of public order and decency, has justly incurred reproach. In response, therefore, to the appeal of a large number of most reputable citizens and tax-payers of that ill-governed city, the Legislature attempted to furnish some redress of their grievances; and a law was enacted to create a police force as free as possible from partisan influence and dictation. If expectation of good was encouraged, the practical result of the Mayor's act defeated for a time a praiseworthy object; and so much the worse if that act proceeded from deliberate intention to thwart the design of a beneficent law. A more discreditable motive could hardly be indulged by a public officer.

Claiming to act under official advice, the Mayor exercised an assumed function of office at a particular moment, which, while it would have been harmless at almost any other time, was obnoxious and injurious to the fair name of the city of which he was chosen executive. If the order of suspension had been withheld until 3 o'clock in the afternoon, or thereafter, instead of being issued at 10 o'clock in the morning, nobody but the official concerned would probably have found fault. It is unfortunate that the nature of the case does not

permit such demonstration of the real motive which induced the act in question, as either to vindicate the Mayor from suspicion, or justify his punishment by removal from office. It so happens that the secret is buried within the Mayor's own breast, and is not susceptible of actual proof by other evidence. The fact that an act produces a collateral effect by conjunction of time with other acts, is not sufficient cause to warrant the removal of the officer who performed it, unless actual proof of corrupt motive be available, provided he had authority for the act, and a good and sufficient reason for its exercise ; or, if authority did not exist, there was excusable ground for believing it did.

The time and remedy in this case must, therefore, remain with the people, whose rights have been so long disregarded and abused by officials chosen to direct their municipal affairs. It is to be regretted most seriously that the remedy cannot be applied or made available before the lapse of another year ; but such fact can in no wise justify arbitrary action on the part of the Executive, which is not completely supported and vindicated by incontestable proof.

ALONZO B. CORNELL.

APPENDIX.

STATEMENT

OF PARDONS, COMMUTATIONS OF SENTENCE AND REPRIEVES
GRANTED BY THE GOVERNOR DURING THE YEAR 1881.

PARDONS.

No pardons were granted during the year.

COMMUTATIONS OF SENTENCE.

January 1, 1881. Nathan Jacobus. Sentenced February 28, 1880 ; county, Erie ; crime, receiving stolen goods ; term, one year and three months ; prison, Erie County Penitentiary.

Sentence commuted to one year, from February 28, 1880, subject to the legal deduction for good conduct.

January 17, 1881. Frank Hudner. Sentenced March 22, 1880 ; county, New York ; crime, seduction under promise of marriage ; term, two years ; prison, New York County Penitentiary.

Sentence commuted to one year, from March 22, 1880, subject to the legal deduction for good conduct.

February 17, 1881. James McGinnis. Sentenced December 22, 1869 ; county, New York ; crime, robbery in the first degree ; term, twenty years ; prison, Sing Sing ; transferred to Auburn.

Sentence commuted to eighteen years, from December 22, 1869, subject to the legal deduction for good conduct. Granted upon the application of the prison officials as a reward for meritorious services rendered in exposing a plot on the part of fellow convicts to escape.

March 1, 1881. Samuel Edwards alias Samuel D. Blauvelt. Sentenced June 28, 1878; county, New York; crime, forgery in the third degree; term, five years; prison, Sing Sing.

Sentence commuted to three years and six months, from June 28, 1878, subject to the legal deduction for good conduct. Granted in pursuance of a recommendation of the District Attorney, promised to the prisoner's father at the time he pleaded guilty and was sentenced.

March 16, 1881. Charles Shader. Sentenced December 1, 1879; county, Genesee; crime, grand larceny; term, two years and six months; prison, Erie County Penitentiary.

Sentence commuted to one year, three months and eighteen days, from December 1, 1879, and will terminate the nineteenth day of March, 1881.

March 19, 1881. Daniel Donohue. Sentenced March 22, 1878; county, Erie; crime, burglary and larceny; term, five years; prison, Auburn.

Sentence commuted to four years, from March 22, 1878, subject to the legal deduction for good conduct. Granted upon the recommendation of the Judge who presided at the trial, as facts developed since then, lead him to believe that the prisoner was improperly convicted.

March 30, 1881. Evan L. Ruth alias Theodore Wilson. Sentenced October 22, 1877; county, Onondaga; crime, grand larceny; term, five years; prison, Onondaga County Penitentiary.

Sentence commuted to four years and nine months, from October 22, 1877, subject to the legal deduction for good conduct. Granted upon the certificate of the Superintendent of the Penitentiary and the Prison Physician, that the prisoner is suffering from consumption, that his death is momentarily expected, and that there is no probability of his recovery.

April 6, 1881. James Nolan. Sentenced December 1, 1880; county, Westchester; crime, assault with a dangerous weapon; term, six months; prison, Albany County Penitentiary.

Sentence commuted to four months and six days, from December 1, 1880, and will terminate the sixth day of April, 1881. Granted upon the recommendation of the Judge, District Attorney and jury.

April 8, 1881. Lewis H. La More. Sentenced January 25, 1881; county, St. Lawrence; crime, assault and battery; term, six months, and to pay a fine of fifty dollars, or fifty days more; prison, Onondaga County Penitentiary.

Sentence commuted to seventy-five days, from January 25, 1881, and will terminate the tenth day of April, 1881.

May 2, 1881. Cornelius Kordikoski. Sentenced December 3, 1880; county, Westchester; crime, assault and battery; term, six months; prison, Albany County Penitentiary.

Sentence commuted to five months, from December 3, 1880, and will terminate the third day of May, 1881.

May 3, 1881. George O'Sullivan. Sentenced May 15, 1878; county, New York; crime, assault and battery; term, three months; prison, New York County Penitentiary. Writ of error granted by the Supreme Court, and the defendant admitted to bail pending a review.

Sentence commuted to pay a fine of one hundred dollars to the District Attorney of the city and county of New York.

May 18, 1881. John Burgher. Sentenced February 21, 1880; county, Erie; crime, robbery; term, five years; prison, Auburn.

Sentence commuted to one year and six months, from February 21, 1880, subject to the legal deduction for good conduct. It appearing that the primary and leading

cause to the commission of the offense for which he was convicted, was the intemperate use of intoxicating liquor. this commutation of sentence is granted only upon condition that the said John Burgher shall totally abstain from the use of intoxicating liquor during the remainder of the time for which, but for this commutation of sentence, he would have been liable to imprisonment ; and in the event of his not complying at all times with this condition, this commutation of sentence shall cease and become inoperative, and he shall be arrested and imprisoned according to his sentence.

May 23, 1881. Louis C. Beattie. Sentenced May 10, 1881 : county, Schenectady ; crime, assault and battery ; term, sixty days and to pay a fine of fifty dollars, and in default of payment to remain committed for a further period of not to exceed one day for each dollar of the fine imposed, unless discharged in due course of law ; prison, county jail.

Sentence of imprisonment commuted to pay a fine of one hundred dollars to the District Attorney of Schenectady county, in addition to the fine of fifty dollars imposed by the police justice of the city of Schenectady in special sessions.

June 27, 1881. Jacob Graccio. Sentenced June 6, 1881 ; county, Albany ; crime, vagrancy ; term, six months : prison, Albany County Penitentiary.

Sentence commuted to three weeks from June 6, 1881, and will terminate the 27th day of June, 1881. Upon the condition that he will leave this country by Saturday July 2, 1881, and will not return during the term for which he was sentenced.

June 28, 1881. John C. Murphy. Sentenced January 10, 1881 ; county, Albany ; crime, petit larceny ; term, one hundred and eighty days, and fined fifty dollars, and in

default of payment to stand committed an additional one hundred and eighty days ; prison, Albany county Penitentiary ; sentence commuted to one hundred and sixty-nine days from January 10, 1881, and will terminate the twenty-eighth day of June, 1881.

Upon the condition that he shall totally abstain from intoxicating liquor, and will leave this State and not return for the period of one year from the date of his release from prison ; and in the event of his not complying strictly with these conditions, this commutation of sentence shall cease and become void, and he shall be arrested and imprisoned according to his original sentence.

July 5, 1881. Frank Cosgrove. Sentenced July 8, 1879 ; county, New York ; crime, accessory to an abortion ; term, four years ; prison, Sing Sing.

Sentence commuted to two years and six months from July 8, 1879, subject to the legal deduction for good conduct.

July 20, 1881. Anthony Stevens. Sentenced May 22, 1881 ; county, Orange ; crime, petit larceny ; term, five months ; prison, Albany County Penitentiary.

Sentence commuted to two months from May 22, 1881, and will terminate the twenty-first day of July, 1881.

REPRIEVES.

June 30, 1881. Martin Flanagan. Sentenced May 20, 1881 ; county, Erie ; crime, murder in the first degree ; term, to be hanged Friday July 8, 1881 ; prison, county jail.

Reprieve granted until Friday the twelfth day of August, 1881, upon the unanimous recommendation of the Judges of the Superior Court of Buffalo, and the District Attorney of Erie county.

December 12, 1881. William Henry Ostrander. Sentenced October 27, 1881 ; county, Oneida ; crime, murder in the

first degree ; term, to be hanged Thursday December 15. 1881 ; prison, county jail.

Reprieve granted until Friday the third day of February, 1882, upon the recommendation of the Judge who tried the case, and the District Attorney who prosecuted the same.

COMPARATIVE STATEMENT,

Showing the Number of Applications for Pardons, Commutations, Restorations to Citizenship and Reprieves; also the Number of Orders granted in the respective classes in each year, from 1865 to 1881, inclusive.

Year.	Number of applications presented.	Pardons granted	Commutations granted.	Total number of pardons and commutations granted.	Restorations to citizenship granted.	Reprieves granted.
1865	878	131	19	150	23	3
1866 .. .	958	169	24	193	82	1
1867 .. .	1,018	130	12	142	47	None.
1868 .. .	1,000	111	36	147	118	6
1869 .. .	948	86	20	106	100	2
1870 .. .	1,158	85	34	119	139	1
1871	1,192	84	29	113	119	5
1872	1,352	98	58	156	159	1
1873	894	44	8	52	24	3
1874	1,014	71	21	92	37	3
1875	998	65	24	89	70	11
1876	1,214	99	54	153	128	8
1877	1,038	90	21	111	119	None.
1878	1,152	107	66	173	164	1
1879	1,400	103	106	209	278	2
1880	826	32	18	50	19	6
1881	578	None	17	17	10	2

INDEX.

MISCELLANEOUS.

Boundary line between New York and Pennsylvania, relative to.....	32
Boundary line between New York and Pennsylvania, letter from Gov. Hoyt relative to.....	34
Boundary line between New York and New Jersey, relative to	33
Gildersleeve, Judge Henry A., charges against.....	65
Mandamus, writ of, alternative, Gaf, Fleischmann & Co., answer to.....	76
Mandate for arrest of Patrick Ryan, revocation of.....	45
Message, annual.....	3
Message, special, announcing Tax commission.....	50
Message, special, relative to abandonment of Chemung canal.....	71
Message, special, relative to vacancies in office of United States Senator.....	63
Message, special, transmitting resignations of Roscoe Conkling and Thomas C. Platt, United States Senators.....	56
Message, special, transmitting petition for the removal of Judge Sanford....	37
Message, special, transmitting report of State Board of Health relative to New York and Brooklyn.....	46
Message, special, recommending commission relating to war of 1812.....	105
Murphy, Edward, jr., Mayor of Troy, charges against.....	71
Order directing removal of obstructions in the Hoosick river.....	28
Order to District Attorney of Rensselaer county relative to nuisance at Hart's Falls	123
Order dismissing charges against Edward Murphy, Jr., Mayor of the city of Troy	197
Penal Code, approved, memorandum filed with.....	180
Protest to Secretary of State against promulgating certain bills as laws	129
Ryan, Patrick, letter to Governor of West Virginia relative to	44

PLEURO-PNEUMONIA AMONG CATTLE.

Special message relating to.....	27
Order to Sheriff of Putnam county to quarantine certain premises.....	40

INDEX.

PROCLAMATIONS.

Certain nuisances, for suppression of.....	47
For special election for member of Assembly in Franklin county.....	35
Lotteries, forbidding.....	55
Reward for murderer of Peter McCann.....	26
Reward for murderer of Cynthia Sargent.....	27

PUBLIC HEALTH.

Letter to Governor of New Jersey relating to Staten Island.....	45
---	----

VETOES.

Aliens to purchase and hold land, allowing.....	177
Armory in Kings county, site of.....	36
Appropriation for canals, certain items in.....	72
Bankers' Life Insurance and Trust Company, relating to.....	61
Bridge over canal at Cohoes, removal of.....	56
Certain officers, in regard to.....	111
Certificates of deposit, authorizing return of.....	40
Charitable, benevolent and beneficiary associations, concerning.....	38
Chemung and Greene counties, exempting from town auditors act.....	57
Chemung river, to build bridge across.....	75
Clerk of Albany county, duties and fees of.....	106
Clinton county, surrogate of, conferring additional powers.....	117
Code of Civil Procedure, amending the.....	165
Coeymans, town of, exempting from town auditors act.....	125
Compensation of keepers of city prison, New York city, fixing.....	97
Compensation of court officers in Erie county, relative to.....	31
Cornell Hose Company, Kingston.....	100
Corporations, certain, to deal in patent rights.....	127
Cottman, Thomas, relief of.....	52
Cunningham, John, to reimburse for costs, etc.....	42
Docks in the city of New York, building of.....	133
Dresden, village of, relating to.....	156
Duff, Patrick, relief of.....	107
Ehlers, Robert John, to legitimize the birth of.....	152
Erie Canal, Rochester, bridge over.....	89
Escheat, releasing to Auguste Louise Hohnholz.....	51
Escheat, releasing to Martha Harvey.....	49

INDEX.

Escheat, releasing to Catherine S. Wakeman	126
Escheat, releasing to Elbert Ball Porter and other	49
Escheat, releasing to Joseph D. De Groat.....	159
Expenses of the Legislature, to pay certain.....	162
Fish hatchery in Jefferson Co., providing for.....	143
Foley, John, relief of.....	160
Franklin county, travel on highways of, relative to	161
Fraud in sugar, to prevent	163
Freedom of Worship in certain Institutions.....	98
Floating docks, relative to.....	64
Grades of certain streets in New York city, changing	174
Game Laws, amending.....	114
Grand Legion of Select Knights of Ancient Order of United Workmen, to incorporate	43
Hatzel, Jacob A., relief of.....	119
Hell Gate pilots, relating to	62
Illuminating oils and fluids, relating to	175
Informers, testimony of.....	135
Jackson avenue, Long Island City, improvement of.....	102
Jurisdiction of canal appraisers in Tyrrell case, conferring	101
Judevine, William, relief of.....	63
Judge and surrogate of Seneca county, increasing salary of.....	50
Kehr, Peter, and others, relief of.....	103
Kessel, Moses, relief of.....	166
Kingsley, W. C. and Abner C. Keeney, relief of	120
Lake George, trees and shrubbery in	168
Long Island City, streets in	113
Long Island City, aldermen of, providing salary for.....	154
Lorraine street, Brooklyn, for grading	68
Metropolitan Transit Company, relating to	92
Mining companies, relating to.....	81
New Capitol appropriation	169
Noxious weeds in highways, relating to.....	157
Oleomargarine, manufacture and sale of	89
Oleomargarine, relating to	66
Policemen, false impersonation of	66
Private property, for protection of.....	153
Public bath, New York city, construction of	53
Public school teachers, New York and Brooklyn, pensioning of	108
Public Schools of Brooklyn, certain supplies to.....	138
Reclaiming lands from the State.....	172

INDEX.

Public Schools of Brooklyn, protection of life and property in	139
Reducing the pay of certain town officers of Sullivan Co., repeal of act.....	35
Refreshment House, Central Park, New York city, for building.....	78
Registry of voters, New York city, publication of.....	79
Removal of actions by foreign insurance companies to United States courts, to prevent.....	69
Riverside and other parks, relating to.....	167
Sheriff's jury, city and county of New York.....	93
Special County Judge and Surrogate, Washington Co., conferring additional powers on	53
Spuyten Duyvil parkway.....	140
Stable manure, New York city, removal of.....	58
State Industrial School, to establish a.....	145
Stemmler, Babette, relief of.....	179
Supply bill, certain items in.....	82
Supply of water, city of New York, from Putnam Co.....	95
Supply of water, city of New York, to provide a further.....	146
Ulster and Delaware Plankroad Co., relating to.....	59
Vinegar, manufacture of.....	67
Workman's Mutual Benefit and Accident Association, incorporating.....	123

APPENDIX.

Pardons, Commutations, Reprieves, &c.....	202
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PUBLIC PAPERS
OF
ALONZO B. CORNELL,
GOVERNOR
OF THE
STATE OF NEW YORK.

1882.



ALBANY:
E. H. BENDER, PRINTER.
1882.

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PUBLIC PAPERS
OF
GOVERNOR CORNELL.

ANNUAL MESSAGE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *January 3, 1882.* }

To the Legislature :

Uninterrupted prosperity has attended the people of this State during the year just ended, in all commercial and industrial interests, save in the pursuit of agriculture, from which only a moderate return of the products of the soil has been realized in consequence of the summer drought ; but this deficiency has not been such as to occasion suffering or alarm. Stimulated by the unprecedented development of manufacturing enterprises of various kinds, cities and villages have taken new and rapid growth ; and the establishment of many recent railway lines promises at no distant day, important and valuable additions to public facilities for transportation. Investments in building and other permanent improvements, have been larger and less speculative than in any previous year ; and an increasing demand for labor, therefore, with corresponding benefits of compensation, has perceptibly improved the condition, and promoted the contentment, of the working classes. To the shiftless and improvident, want and idleness seem alone confined. For these blessings in such measure bestowed, as well, also, for the satisfactory state of the public health, the observance of law, and the preservation

of order, it becomes us to manifest sincere thankfulness to the Source of All Good, for His gracious care ; and gratefully to seek His continued favor and guidance through the coming year.

But though peculiarly blessed in material respects, we have been suddenly plunged into national grief and mourning. The wicked assassination of the President of the United States convulsed every heart. The whole civilized world felt the blow. That the chief magistrate of this great republic should be murderously assailed, and languishing, die, in a time of such general prosperity and peace, produced a shock unparalleled in our history. Sorrow fell over all like a pall. The expressions of sympathy, coming with signal accord from every quarter of Christendom, evidenced, impressively, the amity and respect entertained toward us by all enlightened nations. But that such an appalling event could occur without violent or disastrous consequences to public order, and with no excitement or turmoil attending the transfer of executive power to the constitutional successor, affords a fitting illustration of the wisdom and stability of our form of government, enduring in the devotion and loyalty of the American people. To the munificent provision for the widow and fatherless children, quickly undertaken and accomplished in a noble impulse and spirit, citizens of this State contributed with a liberality and zeal alike honorable to themselves and to the proud name sustained by New York in the sisterhood of the Union.

FINANCES.

The prudent and economical administration of the financial affairs of the State is demonstrated by the condition of the State Treasury, and must prove gratifying to every citizen.

During the past year the public revenues have been adequate to satisfy all legitimate claims, and provide \$376,500 for the Sinking Fund, leaving on hand besides, a surplus larger by

\$1,846,856 than that which existed at the close of the preceding year. The operations of the financial department for the past fiscal year and the general condition of the State Treasury on the 30th of September, 1881, are exhibited by the following detailed statement :

Receipts and Payments.

Aggregate balances in the Treasury of all the funds October 1, 1880.....	\$3,448,215 38
Aggregate receipts during the fiscal year ending September 30, 1881	14,940,403 90
	\$18,388,619 28
Deduct payments during the year.....	12,856,760 57
Balance in the Treasury Sept. 30, 1881....	<u>\$5,531,858 71</u>
The amount of receipts into the Treasury on account of the General Fund revenue, during the year ending September 30, 1881.....	
	\$6,751,034 80
The payments.....	6,986,370 01
Apparent surplus, September 30, 1881....	<u>\$1,764,664 79</u>

Supplementary Statement.

Balances due from county treasurers, September 30, 1881, on State tax of 1880.....	\$247,025 47
Add amount paid on account of 1881, appropriations, included in tax levy payable into the State Treasury in April and May, 1882, of which \$440,000 was for new Capitol.....	1,021,272 51
Add apparent surplus of the revenue, September 30, 1881, as shown in preceding statement	1,764,664 79
Total.....	<u>\$3,032,962 77</u>

Amount brought forward.....	\$3,032,962 77
Deduct balances of 1880, appropriations unpaid and in force September 30, 1881.....	533,347 50
Actual surplus, September 30, 1881.....	<u>\$2,499,615 27</u>

Debt.

On the 30th September, 1880, the total funded debt was \$9,114,054.87, classified as follows:

General Fund (Indian annuities).....	\$122,694 87
Canal.....	8,988,360 00
Bounty.....	3,000 00
Total.....	<u>\$9,114,054 87</u>

On the 30th September, 1881, the total funded debt was \$9,109,054.87, classified as follows:

General Fund (Indian annuities).....	\$122,694 87
Canal.....	8,983,360 00
Bounty	3,000 00
Total.....	<u>\$9,109,054 87</u>

A balance of \$2,422,981.57 in the Canal Sinking Fund leaves the amount of that debt, unprovided for September 30, 1881, at..... \$6,560,378 43

The State debt on the 30th of September, 1880, after deducting the unapplied balances of the Sinking Funds, amounted to..... \$7,059,574 70

On the 30th September, 1881, including \$122,694.87..... 6,683,073 30

Showing net contributions to Sinking Fund of \$376,501 40

The actual reduction of the debt during the same period by cancellation being..... \$5,000 00

TAXATION.

The tax levy enacted by the last Legislature for the current fiscal year, is at the rate of $2\frac{1}{2}$ mills, which it is estimated, will yield, on the present valuation, a revenue of \$6,032,829.-61. The levy of the preceding year was at the rate of $3\frac{1}{2}$ mills, and produced \$9,232,542.33. Thus it will be seen that the burden laid on the tax payers directly for State purposes, has been reduced this year more than one-third, as compared with the previous year. With the large surplus now in the treasury, if the appropriations by the present Legislature be confined to the actual necessities of the State, the rate of taxation for the coming year can be still further and materially reduced. Sound policy dictates that the present encouraging condition of the fiscal affairs of the State shall not be disturbed by inconsiderate or extravagant legislation, but that appropriations be confined to legitimate expenditures, and the completion of public works now in progress.

The necessity of a revision of the laws relative to assessment and taxation still exists, and reform in this regard is urgently demanded by the people. This subject was earnestly presented in my previous annual messages, and much discussion was devoted to it by the last two Legislatures, without, however, securing satisfactory results. Beyond a modification of the law defining the term "land," nothing practical has been accomplished in this respect. One great defect in the assessment laws is their failure to reach personal property, thereby imposing an undue proportion of the burden of taxation on the owners of real estate. The reduction in the rate of taxation for State purposes affords but moderate relief to the long-suffering tax payer, for the reason that much the larger proportion of taxation results from expenditures made by city, village or county authorities; and in many localities the rate of taxation consequent upon large local indebtedness, is such as to render the condition of the land-owner extremely unfortunate.

Until some comprehensive and practical measure be matured, and embodied in the statutes of the State, distributing the expenses of government, both local and general, fairly and equitably among all property owners, the issue will still remain, and be pressed for solution on the law-making authority of the State. Your attention is earnestly directed to this subject, as the importance of the question demands, in the hope and belief that your wisdom will be equal to the requirements of the case.

As a means of relieving, to some extent, ordinary tax payers from the expenses of the State government, laws were enacted during the last two years, for special taxes on corporations. Some imperfections in the terms of these laws have prevented the accomplishment of all that was designed, but the results so far realized have been such as to convince the practical observer that something still more effective and desirable can be reached by judicious amendment of existing acts. During the last fiscal year the sum of \$992,725.16 was received and paid into the State Treasury under the operation of these laws, in addition to \$141,127.03 collected during the preceding fiscal year. The Comptroller will furnish suggestions, based on the experience of administering these special laws, that will doubtless aid you in framing the necessary amendments.

CANALS.

The limited movement of grain products, and unusual competition between the trunk lines of railway during the past season, have largely reduced the volume of traffic on the canals, whose revenues have suffered a corresponding reduction. During the calendar year 1880 the total number of tons moved was 6,457,656, while for the year 1881 the amount was only 5,175,505, showing a loss in traffic the current year, of 1,282,151 tons. Furthermore, canal freights have been lower than in any previous year; the average for the season, from Buffalo to tide-water, was, for wheat, $4\frac{8.8}{100}$ cents per bushel;

and for corn, $4\frac{3}{100}$ cents per bushel. After deducting the tolls, at $1\frac{3}{100}$ cents per bushel for wheat and $\frac{2}{100}$ cents for corn, the above rates netted the carrier but \$1.28 per ton ; and during a portion of the season only $90\frac{1}{2}$ cents per ton from Buffalo to New York, a distance of nearly five hundred miles. The movement of west-bound traffic for 1880 was 1,518,290 tons, and in 1881, 1,365,418 tons ; showing a decrease of 152,872 tons this year, notwithstanding the removal of tolls on this class of traffic.

The revenues of the canals for the year ended September 30, 1881, were as follows :

Tolls	\$810,532 50
Rent of surplus water.....	1,535 00
Miscellaneous.....	6,197 56
Total	\$818,264 61
Total expenditures for collection, superintendence and ordinary repairs.....	1,023,907 06
Expenditures in excess of revenue	\$205,642 45

This deficiency in revenue was supplied from the fund for extraordinary repairs, in pursuance of section 2 of chapter 449, Laws of 1881.

The sum of \$818,264.61 (the gross income of the last fiscal year), under the constitutional restriction, will be the limit of expenditures for the current fiscal year, which will end September 30, 1882. But the estimated receipts from tolls will aggregate only \$640,000, leaving a deficiency of \$178,000 in revenue to meet the ordinary repair appropriation for the same year. This deficiency can be supplied in the same manner as last year, by a contingent appropriation from the extraordinary repair fund, of which there is left unappropriated about \$460,000.

It will be observed that the expenditures for the collection of tolls, superintendence and ordinary repairs for the last

fiscal year were \$134,891.22 in excess of the preceding year. All of this amount, and a considerable sum in addition, was expended for necessary work which had been unavoidably postponed in consequence of the diminished revenues of the years 1878 and 1879; and for material to be used for repairs hereafter. The necessity for the purchase and accumulation of material for use in succeeding years is due to the constitutional restriction which limits the expenditures in any one year to the amount of gross income of the previous year. This safeguard is fully justified in view of the lessened revenues of the current year, and the prospect of still greater reduction of income for the year to come.

If the revenues for the current fiscal year, ending September 30, 1882, do not exceed the foregoing estimate of \$640,000, then that amount will be the limit for expenditures for the fiscal year ending September 30, 1883, regardless of the actual revenue for that year; unless, in the meantime, the Constitution be amended. This sum seems altogether insufficient for a year's maintenance.

There should have been contributed from the revenues of the last fiscal year to meet the constitutional requirements for deficiency in the Sinking Fund:

Interest on canal debt	\$538,602 00
For the Sinking Fund.....	450,000 00
Total not realized	<u>\$988,602 00</u>
Add for deficiency in tax of 1880.....	17,098 59
Add for interest on these deficiencies until same can be realized from taxes.....	80,456 05
Total amount to be supplied by tax.....	<u>\$1,086,156 64</u>

The competition of railways, the enlargement of the Canadian canals, and the development of the Mississippi river route, are important considerations with reference to the future capacity of the canals to earn the necessary revenue

for maintenance. If, added to these, there should be a smaller foreign demand for breadstuffs, or reduced production in the western States, it is plain to be seen that under the present constitutional restriction on canal expenditures, the usefulness of the canals may be seriously imperiled, if not entirely suspended, until relief be secured through an amendment to the Constitution. In view of the time required for this process, your consideration of the pending propositions for constitutional amendment is respectfully suggested.

CANAL APPRAISERS.

There has been a large falling off in the number of claims for canal damages filed with the appraisers, as compared with the preceding year, and a proportionate diminution in the amount of damages claimed. Eighty-nine new claims, amounting to \$110,080, were presented last year, against two hundred and twenty-five claims, aggregating \$428,820, the year previous. One hundred and seventy-two cases were heard and determined by the Board of Canal Appraisers during the year. On those considered the damages claimed amounted to \$418,775, while the awards allowed thereon were only \$10,-635.72. The number of claims awaiting adjudication, and on file in the department at the end of the year, was seven hundred and forty-one. The Appraisers are entitled to credit for the care with which they have kept their important trust, and guarded the interests of the State committed to their charge.

PUBLIC EDUCATION.

The most notable feature respecting the interests of public education, is presented by the marked decrease in the number of children attending public schools during the past year, as shown by reports made to the Superintendent of Public Instruction, in which the number is stated at 1,021,282, as against 1,031,593 for the preceding year. It is not easy to determine what has caused this noticeable difference, unless,

possibly, it be attributable to the increased demand for labor, by reason of which children may have been withdrawn from the schools to engage in various employments. Whatever the cause it is sincerely to be regretted, as it cannot but prove unfortunate to the well-being and usefulness of the rising generation.

The constant decline of the school district libraries affords striking evidence of the necessity for more liberal provision for their support. The number of books in these libraries last year is reported at 707,155, which, compared with the previous year, is a decrease of 28,508. In 1860 the number was 1,286,536; and a gradual but certain reduction has been going on each succeeding year. These libraries afford many facilities for information, not only to children, but likewise to adults; and they should not be permitted to deteriorate or waste away. Perhaps a change from the district system to that of town libraries might be advantageously made. But it is clear that some well-timed and expedient method should be adopted to arrest the present downward tendency; otherwise the \$50,000 under present laws annually appropriated to library purposes by the State, might better be directed to some other object.

Common School Statistics.

For the year ending September 30, 1881 :

Total receipts, including balance on hand Sep-	
tember 30, 1881	\$11,984,715 08
Total expenditures	10,808,802 40
Amount paid for teachers' wages	7,775,505 22
Amount paid for school-houses, repairs, furni-	
ture, etc	1,467,361 00
Estimated value of school-houses and sites . . .	31,091,630 00
Number of school-houses	11,894
Number of school districts, exclusive of cities,	11,248

Number of teachers employed for the legal term of school	20,728
Number of teachers employed during any portion of the year.....	30,826
Number of children attending public schools,	1,021,282
Number of persons attending Normal schools,	5,944
Number of children of school age in private schools.....	108,309
Number of volumes in school district libraries,	707,155
Number of persons in the State between the ages of five and twenty-one years	1,662,813

COLLEGES AND ACADEMIES.

Reports have been received by the Regents of the University during the past year, from twenty-two literary colleges, comprising 388 instructors, 4,389 students, and representing property to the amount of \$17,240,400 ; also, returns from 236 academical institutions with 1,182 instructors, and 31,036 pupils ; of the latter of whom 9,759 are stated as pursuing academic studies and forming the basis for the apportionment of the literature fund.

The past year has been exceptional for the unusual number and amount of donations made to the various colleges and universities of the State. These institutions are keeping pace fully with those of other States, and afford gratifying promise of increased usefulness in the future. The demand for educated service is such that most of the graduates from the scientific courses of collegiate institutions find prompt and profitable employment. This fact is calculated to exert an important and most salutary influence on the material development of the country, and every relation of society.

As trustees of the State Library the Regents of the University have made provision for arranging and editing the Clinton manuscripts, and other State papers, under the authority

heretofore granted by the Legislature. The scope and progress of this work will be reported to you in due season, and will doubtless engage an interest appropriate to its character.

BANKS.

Perhaps in no other way can the improved financial condition of the people of the State be more readily discerned and appreciated than from the condition of the banks, and more particularly the savings banks, in which the surplus earnings of people in moderate circumstances are deposited. Notwithstanding the smaller rate of interest now allowed depositors incident to the constant reduction in income from all really first-class securities, these institutions show large gains in the number and amount of deposits. A most gratifying feature of the condition of the savings banks, is the substantial increase of their surplus funds, thus insuring greater stability and security against loss in less prosperous times.

On October 1, 1881, seventy-two banks of discount and deposit were engaged in active business, under the provisions of the State banking laws ; and their condition was as follows :

Resources	\$113,463,572
Capital	19,025,700
Surplus and profits	8,928,175
Due depositors	75,717,130
Other liabilities	9,792,567

During the year deposits increased, \$13,921,357 ; profits, \$869,895 ; loans and discounts, \$11,242,376. The net aggregate increase in assets was \$13,612,817. Five new banking associations organized during the year, and one changed from a State to a National bank ; leaving four as the net increase in number of associations.

One hundred and twenty-eight savings banks reported July 1, 1881 ; eleven of which are in process of voluntary liquida-

tion and do not receive deposits; the only act necessary to complete their final dissolution being the transfer of unclaimed balances, to the Superintendent. No savings bank closed during the year. In July last a certificate of authorization was granted for a savings bank in Buffalo, that being the only one organized since 1875. The condition of the savings banks on July 1 was as follows:

Resources	\$424,204,808
Due depositors.....	370,672,297
Surplus.....	53,303,383
Other liabilities.....	229,127
Number of open accounts.....	<u>995,742</u>

The increase in the several items during the year was as follows:

Resources	\$47,993,568
Deposits	35,210,727
Surplus.....	12,759,929
Open accounts.....	<u>82,879</u>

There are thirteen trust, loan and mortgage companies in operation in the State, owning \$130,000,000 of assets. The aggregate capital employed is \$12,000,000. During the year one new trust company organized.

There are ten corporations for the safe-keeping and guaranteeing of personal property, two of which organized during the year; the capital invested being \$1,976,900.

INSURANCE.

A report on the condition of the several classes of insurance companies transacting business in this State, furnished by the Superintendent of the Insurance Department, present a gratifying improvement in their condition during the past year.

On the 31st of December, 1880, there were 161 fire insurance companies doing business in this State, of which 86 were New York State companies, 53 of other States, and 22 foreign, with total assets of \$143,398,641; liabilities, including capital

stock, \$97,784,334 ; and net surplus, \$48,614,307. These companies received during the year a gross cash income of \$66,420,034, and their gross cash expenditure was \$60,925,644. During the year 1881 six other State and three foreign fire insurance companies were admitted to transact business in this State. Four New York fire insurance companies discontinued business and reinsured their risks, and three other State companies withdrew their agencies and ceased to do business in this State, during the same period.

Twelve life insurance companies, organized under the laws of New York, are now in operation, with aggregate assets of \$214,647,574 ; liabilities, \$177,357,829 ; surplus, as regards policy-holders, \$37,289,744. Of other State life insurance companies, eighteen are now conducting business in this State, having assets of \$203,303,435 ; liabilities, \$169,031,510, and surplus to policy-holders, \$34,271,925. Of marine insurance companies eighteen are transacting business in this State, of which ten are foreign, six New York, and two other State companies, with assets amounting to \$21,315,263, and a net surplus of \$4,443,177. There are also two New York and two other State casualty insurance companies doing business, with \$2,122,021 assets, and \$843,004 surplus.

Securities for the protection of policy-holders insured by the various insurance companies doing business in this State, of the kind and amount required by statute, were held on deposit by the Insurance Department on the 31st of December, 1880, as follows :

New York State Life.....	\$3,977,560 00
New York Casualty.....	201,426 00
New York Fire	1,562,000 00
Other State Fire.....	20,100 00
Foreign.....	7,060,000 00
Aggregate	<u>\$12,821,086 00</u>

Within the last eight months the Superintendent of the Insurance Department has distributed to the policy-holders of bankrupt life insurance companies from the proceeds of securities held by him for their benefit, the sum of \$94,575.

CO-OPERATIVE INSURANCE.

The plan of co-operative insurance first inaugurated by various secret societies has, in recent years, become very popular; and many organizations have been established for this distinctive purpose. When prudently organized, and intelligently and honestly managed, this kind of associations undoubtedly offers the most economical mode of life insurance. Providing as it does for the comfort of multitudes of families that might otherwise be left destitute and dependent, it is of the greatest importance that every prudential measure necessary be taken by the State to guard and protect these humane and praiseworthy associations from abuse. A bill passed the last Legislature to exempt this class of societies from all jurisdiction of the Insurance Department, which would have allowed unchecked introduction into this State of hundreds of fraudulent and speculative organizations existing in other States. It appearing that such a step would prove disastrous to the true interests of well-ordered organizations now so flourishing in our State, this bill was disapproved by me; and, thereafter, another measure was enacted providing for the conservative and helpful supervision of the Insurance Department, designed especially to foster and strengthen all interests involved, and protect them from the intrusion and depreciation of degrading influences. The frequent reports published of the disastrous results of wholesale graveyard insurance in other States, have more than vindicated the wisdom of the policy thus pursued. The general law providing for the organization of these societies can doubtless be amended to the advantage of *bona fide* associations; and it is hoped that the subject will receive due deliberation at your hands.

NATIONAL GUARD.

In furtherance of the policy suggested in my last annual message, the National Guard has been materially reduced in numbers, and a reorganization ordered on a basis which, it is believed, will render the force more efficient and useful for the service required ; while it will also effect a considerable reduction of unnecessary expenditures. Two of the division organizations have been dispensed with, and their commands consolidated with the remaining four general divisions. Three brigade organizations have also been abolished, thus leaving two brigades in each division.

The force, as reorganized, consists of four divisions, eight brigades, fifteen regiments, one organized battalion, forty-two separate companies of infantry, and seven separate batteries of artillery, comprising, in the aggregate, 12,495 officers and enlisted men ; and this is believed to be abundant for any emergency liable to arise. Should it, however, be regarded desirable in the future, to increase the strength of the force, it can be done by enlarging the present commands, without duplicating organizations.

The usefulness of the National Guard, under our military system, does not depend so much on the number of men enrolled as on the efficiency and thorough discipline of the several commands. Much, too, depends on the character, intelligence and patriotic devotion of the officers and men in the service. It is believed that by raising the standard of qualification among officers, and the physical ability of the men, and by placing the troops in camp service at reasonable intervals, the present force will be made far more effective for practical purposes than a much larger one would be without these essential considerations. It was aimed to secure this desirable object, avoiding the necessity of enlarged appropriations of public funds for military purposes, that the policy of reducing the force has been pursued ; and it is con-

fidently predicted that the course taken will be vindicated by experience.

The present mode of providing uniforms for the members of the National Guard is needlessly expensive and wholly unsatisfactory. It entails an undue expense on the men, and fails to provide such equipment as the needs of the service require. A service uniform provided by the State, that can be procured at a much smaller cost than the men are now able to obtain a less desirable article for, would prove far more useful in every respect. The adoption of this plan will require an amendment of the present law, which is respectfully commended to your favorable attention. The appearance of the troops of several of the other States, on the occasion of the military demonstration at Yorktown, in honor of the centennial celebration of the surrender of the British forces under Cornwallis, could not have failed to impress all interested observers with the advantages and desirability of a uniform dress for the militia.

THE NEW CAPITOL.

Very satisfactory progress has been made, the past year, toward the completion of the New Capitol. The Senate Chamber, although not entirely finished, was occupied a portion of the time during the last session of the Senate, but has since been substantially completed; and is, indeed, magnificent in architectural and artistic design. The rooms for the Executive Department were put in readiness, and formally occupied, several months ago; and they prove in every way well appointed. The Insurance Department and the State Board of Health, are also now located in the new building, while the rooms designed for the Military Department and the Superintendent of Public Instruction are nearly done, and will soon be occupied. The offices for the Secretary of State are now being placed in order, and are expected to be ready for use during the winter.

The Judges of the Court of Appeals express dissatisfaction with the apartments designed for their use, and seem unwilling to occupy them at present. They desire to have rooms set apart for them in another quarter of the building, and have indicated a preference for a portion of the space originally intended for the State Library. It is believed that a change in the location of the Library to the west end of the edifice would be quite satisfactory to the authorities having charge of the Library ; which would afford opportunity for the change desired by the Court of Appeals. This, however, involves such a radical alteration in the plans of the building heretofore adopted, that legislative sanction would seem first to be necessary. Could the change suggested be effected without unreasonable expense, it would be, perhaps, quite desirable.

The expenditures on account of the erection and furnishing of the New Capitol during the past year have been as follows :

Balance of previous appropriations on hand as	
reported in the last annual message.	\$421,180 60
Chapter 24, Laws of 1881.	250,000 00
Chapter 325, Laws of 1881.	750,000 00
	\$1,421,180 60
Expended during the year.	1,187,962 57
Balance on hand December 16, 1881	\$233,218 03

This amount will be required to complete payments on contracts not yet wholly completed ; and on outstanding and unadjusted liabilities ; and, also, to continue work now in progress. The Commissioners in charge will, in due time, report to the Legislature a more detailed account of their proceedings, and indicate the amount of appropriation desirable for their purposes during the coming year.

Authority was given by the last Legislature for the demoli-

tion of the Old Capitol, at the discretion of the Commissioners, which can, probably, be advantageously effected early the coming spring. Provision should be made for the improvement of the Capitol grounds, with suitable embellishments, as soon as the old building and State Library are removed, in order to avoid the unsightly appearance that would otherwise be presented. Prompt action is very desirable, so that the trees and shrubbery that may be planted, can take early growth.

SALT SPRINGS.

The total amount of salt inspected on the Onondaga salt springs reservation, for the fiscal year ending September 30, 1881, was 7,633,394 bushels, and the financial operations of the agency were as follows :

Duties collected.....	\$76,334 47
Penalties, rents and sales.....	130 00
Total receipts.....	\$76,464 47
Expenses incurred.....	59,470 24
Surplus revenue.....	\$16,994 23

In connection with this interest of the State, there is no particular occasion for remark beyond the fact that it seems to be well and profitably managed.

AGRICULTURAL EXPERIMENT STATION.

The board of control of the State Agricultural Experiment Station, created by chapter 702 of the Laws of 1881, after deliberate and very thorough consideration of the subject committed to them, and after careful examination of the various farms offered for the station, have finally determined upon its location near the village of Geneva, Ontario county; and have appointed a director, in accordance with the provisions of the statute. The location is regarded as extremely

eligible for the purposes designed, and the property selected is in such condition with respect to buildings and general improvement as to warrant the expectation that the station will be in successful operation within a very few months.

With the station established and in practical process, important results promotive of approved and profitable agricultural methods, may be confidently looked for. Experiments directed by scientific men, whose tests shall have been proved, will be carefully noted ; and all information as to the best means, and the product of given work in applied science of agriculture, will be disseminated for the benefit of those who choose to employ it. If this institution shall prove a help to larger production and more profit in the cultivation of the soil, and the growing of farm stock, its usefulness will soon be recognized, and its influence felt in the material advancement of the natural resources of the State. It is not by manual labor alone, but by intelligent forces combined with it, that the best effects are obtained. The trustees of the station will in due time make detailed report to the Legislature, as required by law.

PLEURO-PNEUMONIA.

It is a matter of congratulation that while the cattle disease known as pleuro-pneumonia, which formerly menaced the farmers in this State is not entirely eradicated, it has been confined to limited areas ; and seems to be gradually disappearing. With a single exception, not likely to cause further trouble, the disease has been confined to a small portion of Long Island ; and it is hoped that it may be speedily and entirely eliminated from our territory. The total expenditure incurred in maintaining supervision over the infected region, and in exterminating the malady where it has appeared, was, during the last fiscal year, \$3,181.27. The balance of appropriations remaining available for the prose-

cution of this work, will be abundant for all necessities that may arise during the current year, unless, however, a serious outbreak of the trouble should occur, not now anticipated.

OLEOMARGARINE.

The introduction of the new article of manufacture known as oleomargarine, as a substitute for the genuine product of the dairy, has justly caused much dissatisfaction on the part of farmers engaged in the production of butter. Chapter 415 of the Laws of 1877, and chapter 439 of the Laws of 1880, were enacted for the protection of dairymen, and to prevent deception in the sale of butter. These statutes require that any article in semblance of butter, not the legitimate product of the dairy, and not made exclusively of milk or cream, shall have distinctly marked or stamped on each package the word "Oleomargarine." Complaint is made that these laws are constantly violated, and that large quantities of oleomargarine are sold by dealers as real butter, without the required brand. Two bills were passed by the last Legislature relating to this subject, but, unfortunately, the provisions of both were in conflict with the Constitution and laws of the United States, and they were, therefore, returned to the house in which they originated without Executive approval.

It is the undoubted duty of the proper authorities to enforce the laws now existing for the protection of the dairy interests; and also, in the interest of consumers, to prevent the sale of oleomargarine as butter. If it be found that their provisions are ineffectual, then they should be amended in such manner as to provide stringently against all deception and fraud in the sale of an article of such universal use as butter. While the patent laws of the United States must be duly observed, there ought to be no difficulty in enacting a law that will reasonably protect the producer of natural butter, and likewise, the consumer. Oleomargarine is a pro-

duct of manufacture recognized and protected by Federal statute, and its sale under the patented name cannot be interfered with by State regulation unless demonstrated to be deleterious to health. But it cannot properly be sold as butter; and all such sales should be strictly forbidden and prevented.

RAILROAD TRANSPORTATION.

The constantly increasing development of railroad facilities enhances the importance of a fair and just regulation of freight traffic. While, to a certain extent, the competition of rival lines relieves many localities of embarrassments formerly suffered, yet the continuous absorption of the carrying trade by railways renders the effect of marked discrimination in rates all the more injurious to those against whom it operates. Experience demonstrates that increased traffic has induced cheaper rates, and but for the effect of unjust discrimination as between individual patrons and communities, there would be, perhaps, no serious cause for complaint at the present time.

Much depends in the prudent and successful conduct of many kinds of business, on the uniformity and steadiness of freight charges, and also on their general publicity. These results could easily be secured by legislation that need not be onerous to the railroads. More important still to business interests is the question of discriminating rates; and the remedy is also, more difficult to devise. It may not, perhaps, be possible to cure the evil by arbitrary legislation; but it ought not to be difficult, for a beginning, to afford some amelioration, leaving future experience to point out and secure complete relief.

This question was pressed upon the attention of the Legislature in both of my former annual messages, and became the subject of much deliberation, without, however, securing definite action. There are cogent reasons why it should command your attentive consideration, and the hope is indulged that you will be enabled to devise a measure which shall

afford the needed relief to patrons, and at the same time not impose unreasonable burdens on the corporations that have contributed so much to develop and enlarge the commercial facilities of the State.

STATE PRISONS.

For the first time in their history the State prisons were self-sustaining during the past year. The earnings of the convicts have sufficed for current expenses, leaving a small balance besides, to the credit of the prisons, in the treasury of the State. The average number of prisoners confined at Auburn, Clinton and Sing Sing in the last four years was as follows :

1878.....	3,379
1879.....	3,062
1880.....	2,970
1881.....	2,997

The following statement shows the amount of the earnings and expenditures on account of the several prisons for the fiscal year which closed September 30, 1881 :

Sing Sing.

Earnings.....	\$229,254 14
Expenses	187,127 20
Surplus	\$42,126 94

Auburn.

Earnings.....	\$113,658 63
Expenses	118,781 85
Deficiency	\$5,123 22

Clinton.

Earnings.....	\$61,443 14
Expenses	97,882 51
Deficiency	36,439 37
	41,562 59
Actual surplus for the year.....	\$564 35

ELMIRA REFORMATORY.

The total number of persons received and treated at the Elmira Reformatory since it has been in operation is 1,238, of whom 753 have been discharged, leaving 485 in custody September 30, 1881. The average number of inmates during the past year was 493; and a maximum of 535 was reached in the meantime. The cost of maintenance over earnings, since the industries were inaugurated, has been as follows: For 1879, \$21,284.92; 1880, \$21,681.22; and for 1881, \$40,860.37. The marked increase for the last year is attributed to reduced production and diminished sales incident to the change from manufacture on public account, to the contract system, pursuant to the law of 1881. With the present capacity of the Reformatory, which at most can accommodate not more than 600 inmates, and the expenditure necessary to its suitable management, it is not expected that the earnings under the contract system will equal the cost of maintenance. The indebtedness of the Reformatory, as stated by the special legislative committee last year, has all been paid, and the institution is reported to be now free from debt. The managers report that more than eighty per cent of the inmates, conditionally released, have assumed industrious and reputable habits, and that society has reasonable pledge from them of immunity from further misconduct.

HOUSE OF REFUGE FOR WOMEN.

The board of managers of the House of Refuge for Women, appointed pursuant to chapter 187 of the Laws of 1881, have purchased, at an expense of three thousand dollars, thirty acres of land within the corporate limits of the city of Hudson, as a site for the contemplated institution. The location appears to be in every way eligible for the purpose designed, and the price of the property secured must certainly be considered highly advantageous to the State. The managers are now seeking information with reference to plans for building,

in expectation of proceeding at an early day with the work of construction. One hundred thousand dollars have been appropriated for the complete and practical establishment of this institution. Thus far the managers have made a prudent use of their means ; and if they succeed as well throughout, and keep within the limit of the original appropriation, as was designed, their course will be deservedly commendable, and fortunate to the State.

CHARITABLE INSTITUTIONS.

The State Board of Charities furnish information that the various charitable and other institutions coming within their purview, report expenditures for the year ending September 30, 1881, as follows :

State institutions.....	\$1,571,641
County poor-houses.....	1,170,842
City alms-houses.....	1,117,878
Orphan asylums and other homes.....	4,035,835
Hospitals.....	1,302,158
Dispensaries.....	161,946
Total.....	<u>\$9,360,300</u>

The following is a classification of these expenditures as far as ascertained :

Salaries and wages.....	\$1,143,351
Provisions and supplies.....	3,940,793
Clothing.....	280,671
Fuel and lights.....	317,060
Medicines and medical supplies.....	104,587
Buildings and improvements.....	984,979
Furnishing.....	142,268
Ordinary repairs.....	209,042
Indebtedness, principal and interest.....	656,693
Investments.....	484,432
Not enumerated.....	1,096,421
Total.....	<u><u>\$9,360,297</u></u>

The funds for the support of these institutions were derived from the following sources :

State of New York.....	\$913,044
Cities and counties.....	4,707,314
Labor of inmates.....	126,978
Paying patients.....	268,669
Donations.....	1,152,754
Income of invested funds.....	379,216
Loans.....	663,392
Non-enumerated sources.	1,148,933
Total.....	<u>\$9,360,300</u>

Of State paupers in the various alms-houses there were on September 30, 1880.....	195
Committed during the year ending September 30, 1881.....	1,373
	<u>1,568</u>

Discharged upon recovery.....	492
Secured employment.....	10
Absconded.....	91
Transferred to other institutions.....	13
Furnished transportation to place of legal settle- ment, or to their homes in other States and countries.....	745
Died.....	44
Under care September 30, 1881.....	164
	<u>1,568</u>

Pursuant to chapter 549 of the Laws of 1880, fifty-nine crippled, blind, lunatic and other infirm alien paupers were during the past year, removed to the countries whence they

were sent, at a total expense of \$1,514.42, being an average of \$26.67 *per capita*. These persons had generally been dependent on public or private charity at home, and were destitute when landed on our shores. In every instance their shipment to this country was clearly traced to public authorities abroad, or to some society, guardian or friend. Probably not one of them would have become self-supporting, and the annual expense of maintaining them here at the moderate rate of \$2.50 per week, would have been \$7,670, aggregating a total expenditure of \$115,000 for the balance of their lives, estimated at an average of fifteen years.

The constantly increasing number of insane persons is exhibited by the following statement of the number of inmates of the various State and local asylums, poor-houses and private asylums for the past five years :

October 1, 1881.....	10,059
1880.....	9,537
1879.....	9,015
1878.....	8,781
1877.....	7,921

The new asylum for the insane, located at Binghamton, has been brought into use during the past year, and already contains a considerable number of patients.

Complaint is made on behalf of the State Board of Charities, against the managers of the State Asylum for the Insane at Utica, for neglecting to report, as required by law, a detailed and classified statement of expenditures. Compliance with this statutory provision is essential to an intelligent comparison of the management of the several like institutions, and should be rigorously enforced. It is certainly not creditable to the officers of the Utica asylum that this plain duty has been so long disregarded.

COUNTY JAILS AND POOR-HOUSES.

The attention of the Legislature has for two years, been earnestly directed to the disgraceful condition of most of the county jails and poor-houses, without securing, however, such legislation as the public interests demand. With few exceptions these institutions are discreditable to the communities responsible for their maintenance, and sadly injurious to the unfortunate classes committed to them. The commingling of the sexes, and the detention of young offenders in company with older and confirmed criminals, is obviously detrimental, and certain to result in the debasement of those who should be guarded from harmful associations while under the control of public officers.

True it is that county authorities are directly at fault for the continuance of these evils. But the State is also responsible for the well-being of its citizens; hence all the more should its authority be exercised for the protection of the weak and unfortunate. These abuses have continued for a long series of years; and unless some legislative action be taken that will insure local reforms, no adequate relief may be expected. Authority should be lodged with some State agency, by which unfit jails and poor-houses can be condemned and the counties required to replace them with suitable structures.

CRIME.

The frequency and atrocity of murderous assaults is an alarming feature of our times. Without investigation to prove the fact, there seems to have been, during the past year, a marked increase in the number of brutal homicides. Scarcely a day passes without the publication of some horrible tragedy, generally perpetrated on weak and defenseless persons. In much the larger proportion of instances these terrible deeds are directly traceable to habits of intemperance. It is lament-

able in the extreme that such condition should exist in a period of unexampled prosperity, when, to all appearances, an unusual degree of comfort and contentment abides with the great mass of our population. The reasonable certainty of punishment in recent years demonstrated, seemingly fails to arrest the tide of brutality; and little satisfaction is experienced in contemplating remedial measures for its prevention. The subject is pregnant with grave importance, and should engage the most serious consideration of all thoughtful and law-abiding citizens.

PARDONS.

The annual statement of pardons, commutations and reprieves, which will, in due time, be communicated to the Legislature, will show that the constitutional prerogative has been exercised even more sparingly than during the previous year; and notably so in comparison with former years. Considerable reflection has enforced the belief that the pardoning power was not intrusted to the Executive for the purpose of interfering with or arresting the operations of law, either from motives of favoritism, or of pity. Should such considerations control, it would be difficult to put a bound to clemency; and the prison doors might constantly stand open.

The Legislature, in its wisdom, has provided that convicts imprisoned for stated periods shall be entitled to commutation for good behavior. The operation of this humane law has produced marked effect in improving the conduct of prisoners, and raising the standard of discipline in the prisons. Beyond this merciful interposition it has not seemed wise to go, except in correcting what may be clearly shown to be errors of courts in the administration of justice; or when material evidence is produced on behalf of the prisoner, to the benefit of which he is apparently entitled, but which was not available on trial. Such view is taken on the as-

sumption that clemency was placed in the keeping of the Executive to aid in the administration of full and exact justice, and not to prevent or defeat the just and righteous enforcement of the laws.

IMPRISONMENT FOR DEBT.

Flagrant outrages against personal liberty by imprisonment for debt, are of frequent occurrence in the city of New York. Hundreds of persons are annually arrested and lodged in the county jail, and there detained until bail can be secured, which is generally difficult and often impossible for the unfortunate victims to obtain. Imprisonment for claims insignificant in amount are of no uncommon occurrence, and fifty to seventy-five prisoners are often held in detention under civil process at a time. Instances are by no means rare where individuals have thus been restrained of their liberty for several years before procuring release.

Imprisonment for debt was formally abolished by the statutes of this State many years ago; and it has long been the pride of our civilization that no citizen should be deprived of personal freedom except on a penalty for crime or misdemeanor. To the contrary, however, this theory is not made good in practice. The truth is known that citizens are far from secure; and as this condition of things affects more seriously the poor and friendless, all the more necessity exists for the correction of present abuses. Every consideration of humanity demands that these wrongs shall be promptly corrected by careful amendment of the laws now in force.

INDIANS.

The gradual though constant decline in the moral and mental condition of the remnants of Indian tribes yet remaining in our State, is a subject of serious concern to intelligent citizens who have observed this unfortunate tendency. With all the opportunities for education and improvement within

the reach of the young, there is little visible disposition to embrace the advantages extended ; while prostitution and intemperance are making steady progress. The capacity of the Indian for education and cultivation has often been exemplified, and it seems unfortunate that, with all the privileges of our State for the improvement of the rising generation, this race of beings should be allowed to drift along in ignorance and increasing degradation. The continuance of the large reservations of land held in tribal interest, is believed to be detrimental to the material welfare of the Indians, for whose benefit they were set apart ; and it seems desirable that practical investigation be undertaken to determine the feasibility of some change in policy, by severalty or otherwise, which may inure to the ultimate elevation of these wards of the State.

STATE BOARD OF HEALTH.

The operations of the State Board of Health since its organization in the spring of 1880, have fully justified the wisdom of its creation. Influences harmful to health and destructive of life, in various portions of the State, have been either modified or abated. The intolerable nuisances formerly existing at Hunter's Point and vicinity, opposite New York city, have been almost entirely removed, to the comfort and satisfaction of the surrounding communities. Malarial diseases which prostrated hundreds of people along the lines of the abandoned canals, have also been controlled and good health restored. The organization of local boards of health has been greatly stimulated, with most useful results to the health of neighborhoods. In the general work prosecuted, it has been found that the statistics of the death rate in many localities are grossly defective, and it is believed that this can only be remedied by such practical amendments of the health statutes as will make the registration of deaths compulsory, and therefore, effective.

The State Board has much evidence to show that, while unusual healthfulness has continued throughout the year, certain contagious diseases, and also some preventable maladies not contagious, have caused a considerable number of deaths in various communities; and that, in each such instance, there was not at hand a competent local board of health, until the alarm of the inhabitants compelled action; whereupon the severity of diseases was speedily checked and overcome. The inefficiency of the general drainage act is noted, and the necessity for some change in it is urged to meet new conditions, and remove prevailing diseases from many localities.

Some profitable attention might also be devoted to the subject of sanitary rules in the construction of houses. The neglect to observe a proper system of drainage, ventilation and plumbing, has caused much sickness and mortality, particularly in our large cities. Any building that breeds contagious or pestilential disease, whatever its character or use, should be regarded a public nuisance; and any person who knowingly maintains such place, or omits to remove the evil defects in structure or otherwise, should be held to a rigid accountability. Many people have, from necessity, to live in tenements, or hired houses, and their lives should be as secure as those who build and occupy their own residences.

EMIGRATION.

Owing to the increased demand for labor, the number of immigrants arriving at the port of New York last year, was largely in excess of the year before. Statistics furnished by the Commissioners of Emigration show that 423,350 immigrants landed at Castle Garden from January 1 to December 10, 1881, making an increase of 114,804 over the same period the preceding year. It is estimated that the number will have increased to 440,000 by the close of the year, which will be

the largest annual arrival since the organization of the Board of Emigration.

The number of arrivals during each of the last ten years was :

1872	294,581
1873	266,818
1874	140,041
1875	84,560
1876	68,264
1877	54,536
1878	75,347
1879	135,070
1880	327,371
1881, say.....	440,000

• Although the larger proportion of this immense volume of immigration was composed of a superior character of persons, comfortably provided with means to care for themselves, yet a large number of sick and destitute have been sheltered and treated in the State Emigrant Hospitals under the care of the Commissioners, and 611 inmates still remain, including 149 insane.

The Commissioners report that notwithstanding they have exercised the strictest economy in the administration of their trust, the appropriation for the current year will prove insufficient for the support of the department, and will be quite exhausted by the first of February. They, therefore, urge the immediate appropriation of \$40,000 to provide for the balance of the year.

Nothing has yet been realized from the steamship companies, as authorized by chapter 432 of the Laws of 1881, for the payment of expenses in administering the inspection law. This law and the impost imposed for its execution have been the subject of discussion with the steamship companies ; but

arriving at no satisfactory adjustment, the Commissioners have found it necessary to commence suit to enforce the provisions of the statute.

QUARANTINE.

Notwithstanding the immense increase of immigration, and a larger number of arrivals from infected ports, the efficiency of the quarantine establishment at the port of New York has completely prevented the introduction of contagious diseases by incoming vessels. During the early months of the year small-pox was unusually prevalent among alien passengers from various European ports, and much apprehension existed lest infected persons might pass quarantine while the disease was still latent, but which might develop among distant interior communities. Conference with the agents of passenger lines resulted in such precautionary measures as averted apprehended danger. The freedom of the State from infectious diseases, the expressed satisfaction of ship-owners and merchants with the administration of the health officer, and the security felt by the people, are gratifying evidences of the success of quarantine officials in discharging the important and difficult duties devolving upon them.

HARBOR-MASTERS AND PORT-WARDENS.

The attention of the Legislature has heretofore been directed to the fact, that the Supreme Court of the United States having declared the provision embraced in the statute of this State regulating the duties of harbor-masters, which authorizes them to collect fees in compensation for their services, unconstitutional, these officers are left without legal remuneration for services which they are still required by law to render. The magnitude and importance of the commerce of the port of New York require the constant attention of officers authorized to regulate and control the movement of vessels ; and so long as the harbor-masters are continued in the discharge of these

duties by the State, it is essential that they be compensated in conformity with law. Necessity also exists for legislation in regard to the jurisdiction and authority of port-wardens, which have been made somewhat uncertain by the decision of the courts.

EXCISE LAWS.

The manifest inadequacy of the laws for the regulation of the liquor traffic must be a cause of regret to all good citizens. Licenses are granted to hundreds and thousands of parties pretending to be hotel-keepers, whose sole occupation in the way of public entertainment, consists in selling liquor; while in a still greater number of instances liquor is sold openly and boldly without license. Such common and contemptuous defiance of law is a standing reproach to the dignity and peace of the State, and ought, by every consideration of decency and morality, to be rebuked and repressed.

The evils resulting from the sale of liquor, even within the pale of the law, are bad enough, and always to be deplored; but the degradation and ruin resulting from the wholesale violation of law and order is lamentable in the extreme. Crimes most wicked and revolting, of almost daily occurrence, are attributable, in nearly every instance, to the bane of intemperance. All hope of relief from this unfortunate condition of affairs depends on judicious and effective amendments to the present laws. The highest interests of public well-being demand attention to this subject, and without causeless delay.

LOTTERIES.

Although for sixty years the Constitution has prohibited lotteries and the sale of lottery tickets in this State, and laws have been duly enacted for the purpose of enforcing such prohibition, it is notorious that the nefarious traffic still continues to flourish in the larger cities to an alarming extent. Especial efforts have been made during the past two years to impress

prosecuting officers with the importance of greater vigilance in the discharge of their duties respecting this gross infraction of both constitutional and statutory law. Unfortunately, however, these efforts, with but few noteworthy exceptions, have not as yet produced satisfactory results. Penalties for the violation of these enactments should be made more severe, and the duty of various officers of the law made more specific and imperative. With an unrestricted constitutional prohibition for remedial laws to rest on, no effort should be spared to stamp out this defiant and shameful transgression of the authority of the State. The subject is worthy of consideration, and will doubtless commend itself to your attention.

MUNICIPAL AFFAIRS.

The gratifying result of last year's legislation in relation to the city of Brooklyn, effecting the complete overthrow of the political dynasty that has so long ruled the affairs of that important city to its serious detriment, affords encouragement for further efforts to relieve the city of New York of onerous burdens fastened upon her tax payers by past legislation. In 1880 an act was passed giving partial relief in this regard, and it should be supplemented still, by a further reduction of extravagant salaries and the abolition of needless offices. It is a notorious fact that the rate of compensation allowed many officials in the city of New York is far above that paid by private employers or business corporations, for like services; and while it may not be possible to secure the same economy in public expenditures as in ordinary business affairs, it is certainly practicable to approach much nearer a reasonable standard than now exists. Extravagance in the expenditure of public funds is wholly unjustifiable, and responsibility is quite as great for duties neglected as for acts performed.

Although the subject of water supply for the city of New York may be regarded as a local question, yet the fact that

the metropolitan city contains one-quarter of the population of the entire State, and that the continued prosperity of that city is a matter of deep interest to all citizens, warrants some reference in this connection.

At the last session of the Legislature a bill was passed for the construction of an additional aqueduct from Croton lake to the city of New York, which, although strenuously advocated by the officers of the Croton water department, was opposed by many citizens protesting against its provisions, and it failed to receive my approval for reasons stated at length in the message accompanying its return. The occurrence during the past autumn, of a drought of unusual length and severity, causing an actual scarcity in the supply of Croton water for quite a period, and producing consequent uneasiness and alarm to residents of the city, renders it proper that careful and intelligent inquiry be made that shall definitely determine the necessity of larger facilities, and the most feasible method for additional water supply. Affecting, as it does, the comfort and well-being of the entire population of the city, and involving the prospective expenditure of many million dollars, the suggestion is renewed that so important a question should be submitted to a commission of inquiry, to be composed of a number of the most eminent citizens of New York, whose report would command confidence and carry conviction to the community interested, as well as to the Legislature. Prompt action can secure such report in ample time for final disposition of the subject during the present session.

Should it ultimately be considered wise to undertake the construction of a new aqueduct, the inevitable expenditure of twelve or fifteen million dollars, and possibly more, makes it highly desirable that the enterprise shall be securely placed in such hands as will insure its prosecution in a strictly business-like manner, in order that the utmost economy shall be observed compatible with the early completion and permanent

character of the work. Every precaution should be taken to prevent a public improvement of such magnitude being placed under a direction which, by any circumstance, is liable to be influenced by political considerations.

In recent years the city of New York has suffered outrageously from profligate administration, or downright robbery, in the construction of public works. With such grievous experience yet fresh in memory, it would be inexcusable to inaugurate a new and necessarily costly enterprise under a management that, by any possibility, could be tempted to wasteful practices in the conduct of its affairs. Nothing short of an absolute divorce from all political manipulation will avoid the danger apprehended.

INTERNATIONAL EXPOSITION.

Although the question was considerably agitated some months ago with reference to the organization of an international exposition, to be held in New York in 1883, all discussion, if not interest in the subject, has for the time being, been abandoned; and apparently every effort to accomplish the purpose has ceased. Probably the interval of time is now too limited to make adequate provision for such an enterprise to take place as originally proposed; but considering the manifest variety of advantages to be derived from a successful exposition, which should attract the attention and co-operation of all nations, it seems highly desirable that consideration of the subject be renewed, for a later date; and that, if possible, it be put in early progress. The experience of Philadelphia, in bringing to her midst, in 1876, representatives of the entire civilized world, thus inducing every country to become patrons of her industries, was such as clearly to prove to all observers the extraordinary benefits that flow from such exhibitions. While, perhaps, in the present tide of prosperity, the merchants and manufacturers

of New York do not feel the need of such stimulus, yet the time may come in the mutations of business affairs, when such benefit to their patronage as would surely inure from an international exposition, will be eagerly welcomed.

MONETARY DISTURBANCES.

The recurrence at frequent, though irregular, intervals of violent disturbances in the money market of the chief financial emporium is a matter of serious public concern. Commissions of one-sixty-fourth, one-thirty-second and one-sixteenth per cent are often paid for a single day's use of money, in addition to the legal rate of interest ; while, indeed, it has not been uncommon to demand an eighth or even a quarter of one per cent. These extraordinary rates for the use of capital have been more frequent during recent years when the current rates of interest have been extremely low ; and more especially since the reduction of the legal rate in this State. Violent and unnatural stringencies in monetary affairs affect not only business interests in the cities, but the farmer and manufacturer as well, in consequence of the influence on the price of all standard commodities and products.

The cause of these oft-recurring troubles is generally attributed to the influence of the usury laws of this State, which almost alone, among all States and Nations, adheres to the confiscation of principal and interest as the penalty for usurious exactions. When quotations for the use of money in New York run up to a quarter per cent a day—being equivalent to ninety-six per cent a year—the ruling rate in Boston is usually seven or eight per cent ; while nine per cent per annum is an extreme rate in that city. Massachusetts long ago repealed her laws imposing severe penalties for usury, and substituted therefore a merely nominal penalty. The difference in the rates of interest that rule respectively in Boston and New York, at periods of severe contraction, is regarded as

affording the best argument for the modification of our statutes. The volume of financial transactions in the city of New York, by fully three-quarters in amount from borrowed capital, is conducted on loans payable on demand and secured by collaterals. Even if it were considered unwise to change the usury laws as applied to time loans, there can hardly be doubt of the wisdom of modifying them so far as relates to demand loans. Such amendment would afford marked relief to the great bulk of commercial operations, and would leave undisturbed the present usefulness of the laws in protecting the interests of ordinary or occasional borrowers depending on accommodations for fixed periods of time.

STATE BOUNDARY LINES.

The duty of examining and restoring the monuments marking the boundary lines between the States of New York, Pennsylvania and New Jersey, which on the part of this State was delegated to the Regents of the University by the Legislature, has been in process of accomplishment during the past year. After conference with the authorities of the States concerned, satisfactory arrangements have been made for the restoration of the missing monuments. A portion of the work on the Pennsylvania line has already been completed ; and provision has been made for finishing the entire work within the next season.

THE ADIRONDACK SURVEY.

Commendable progress has been made in the survey of the Adirondack region heretofore authorized by the Legislature. An important permanent basis for all leveling work in the northern counties has been made the past season, by the location of a line of geodetic levels, carried northward from Albany through two degrees of latitude, and forming, in connection with the United States surveys, a continuous line of reference levels with monuments from New York harbor

to the Canadian frontier. Valuable work has also been accomplished under the direction of the Superintendent of the Adirondack survey in relocating the boundary lines of Essex, Franklin, Hamilton, Herkimer and Lewis counties. Evidences of former surveys were generally extinct, and in one instance every vestige was obliterated for a distance of thirty-five miles. Township lines were also found to be in great confusion, rendering assessments for taxation difficult, and causing much embarrassment in the collection of taxes. Provision should be properly made for the location and permanent marking of these obscure and missing lines, so as to avoid constantly recurring difficulties, both as to local jurisdiction and the ownership of adjacent lands. The reports of the Adirondack survey have been largely sought by the public, and in authorizing future publications it may be well for the Legislature to consider the practicability of having them placed on sale. It is not unlikely that the expense of publication would be partially, if not wholly met, by this means.

THE NORTHERN WILDERNESS.

Pertinent to matters relating to the survey above referred to, is a subject suggestive of practical observation in regard to the northern wilderness. The vast tract of country lying in the northern part of the State, familiarly known as the Adirondack region, has become one of the most inviting resorts to invalids and tourists. Its high altitudes, pure and bracing atmosphere, perennial streams and mountain lakes, in the shade of primeval forests, constitute the desirable features of a retreat designed by nature for the uses of mankind in pursuit of health or pleasure. But there are other and grave interests belonging to this portion of our territory that appeal with especial force for timely consideration. By far the greater quantity of land within the Adirondack wilderness proper belongs to the State. Individual ownership is now

confined to a few hundred thousand acres. Heretofore it has been the practice of the State, with questionable policy, to sell its wild lands, at nominal prices, to private parties, who have gone on, in most cases, and cut off the marketable timber where accessible, and then abandoned to the State the clearings, worthless generally for agricultural purposes; thereby escaping the payment of taxes. Forest fires have followed and raged with destructive fury, denuding the mountains and checking the flow of springs and streams that supply the navigable waters to the north, and the Hudson river southward. Furthermore, many of the lakes, the natural reservoirs of the mountain courses, have been damaged by dams and overflow, so that the shores of those lying within the working timber limits present the effects of irreparable injury. It has, therefore, become a question of serious import whether the State should any longer part with its title to land in this quarter, now held or that may hereafter revert by the non-payment of taxes. It might be leased, perhaps, with safety, for certain purposes; but its uses should be carefully restricted.

The Adirondack region is the natural and principal watershed of important navigable waters, and, if it be divested of its timber, imminent danger will threaten. The rain-falls will diminish, the springs and streams fail, and unaccountable loss ensue to interests not immediately located in that part of the State. This subject will, indeed, sooner or later, demand inquiry, if its importance do not now compel investigation.

THE PENAL CODE.

The bill to establish a Penal Code, adopted by the last Legislature, was received at the Executive Chamber only one day prior to final adjournment, and therefore too late for suitable opportunity to examine its provisions during the remainder of the session. Careful examination thereafter revealed

several features that obviously require amendment; and if observed in time, would have been promptly indicated in order to obtain further consideration during the late session.

The date fixed for the Code to take effect on May 1, 1882, is, however, sufficiently remote to enable the Legislature to review the subject before the Act becomes operative. On account of the general merits of the measure, which was cordially approved by the legal profession as furnishing a valuable supplement to the criminal statutes, it appeared wise on the whole when the bill came from the Legislature, to complete its enactment, and rely on subsequent amendments to remove all objection. Your attention, therefore, is called to the subject, with a view of perfecting the Code in conformity with the best judgment.

CONTESTED ELECTIONS.

At every session of the Legislature, bills are introduced, and not infrequently passed, providing for the payment of claims made by persons who have succeeded to office after contesting title to the same, in cases where the ousted parties have drawn the salaries during the time they held possession. It is only just that the one elected to an office should enjoy its emoluments; but the salary ought not to be paid twice over, or to different claimants. Some plan should, therefore, be adopted whereby persons legally chosen shall be protected in their rights.

A very effective remedy for what has become a growing evil, would be to require in the case of a contested election, whether general or local, that the contestant be allowed to file with the appropriate disbursing officer a protest against payment of salary to the person who has received the certificate of election, and that the filing of such protest shall prevent payment until the incumbent furnish an adequate bond of indemnity, for a refund of the amount paid, in case the con-

test be decided adversely to the party holding. This would involve no unreasonable exaction or hardship to the incumbent, while it would provide against possible injustice to the contestant. The subject is one worthy of attention, and your intelligent consideration is respectfully directed to it.

BRIBERY AT ELECTIONS.

The true theory of a republican form of government involves perfect integrity in the conduct of elections. The most dangerous enemy of free institutions is a corrupt ballot; and if government by the people ever prove a failure it will be more likely to proceed from this cause than any other. Citizens are justly indignant when frauds are committed, falsifying results, and, in effect, depriving them of the elective franchise. Carefully matured laws have been enacted to guard against these evils, and it is believed that many abuses formerly practiced have been abated. The bribery of voters, however, for which offense both the Constitution and laws provide severe penalties, is yet too common, and should be sternly rebuked.

In certain localities of the State not an election occurs, without the expenditure of large sums for the purchase of votes, and not unfrequently fabulous amounts are thus expended to control local elections. Worse than this, no pains is taken to conceal these long established crimes from public view; and they are often so notorious as to become the subject of neighborhood scandal. Prosecuting officers are sadly derelict in failing to invoke the majesty of the law so wantonly and flagrantly defied under their very eyes; for none can be so blind as not to see, or procure the evidence of these occurrences.

Unless some power intervene to put a stop to this monstrous abuse, it will inevitably grow until elections controlled by such interests as command the largest means, will become a

mere farce. If such condition is reached, respect for law will be turned to contempt, and the liberties of the people endangered. Impressed with the vital necessity of checking this growing vice, you are urged to consider and adopt whatever measures may promise relief, and especially to promote vigor and efficiency among officials upon whom the responsibility of prosecution rests.

CONGRESSIONAL REPRESENTATION.

Pursuant to the Constitution of the United States, a reapportionment of congressional district representation to conform to the census of 1880, will become necessary during your present session, provided Congress shall have completed its duty in determining the basis of representation for the several States. Unless the membership of the House of Representatives as now composed, be considerably enlarged, our State will, of necessity, lose somewhat in the number of its representatives, in consequence of the relative increase in the population of other States, as established by the census; hence reorganization of congressional districts will become an absolute requirement whenever Congress shall have fixed the ratio of representation.

ARMS OF THE STATE.

The doubt and uncertainty as to what is the correct device of the Arms of the State, although not affecting our material welfare, certainly reflect upon the boasted cultivation and pride of our people. A commission designated by the Senate last year carefully investigated the subject and submitted a report to the Legislature, affording full information as to the confusion surrounding this question; and making a proper solution in a specific definition of a device, with provision recommended for an authentic exemplification thereof, to be adopted and alone used for all official documents, and letter headings, as well as for every purpose for which it may, with

propriety, be employed ; thus making it familiar to all. The fact that nearly one hundred different devices are extant, and that not a single person within the State is able to prove what is the true and legal design, is quite sufficient to demonstrate the desirability of some authoritative disposition of the matter.

CONSTITUTIONAL AMENDMENTS.

Propositions for amending the Constitution in several respects were adopted by the last Legislature, and will, therefore, come before you this session. Those with reference to the canals are especially timely in view of possible developments in the near future, affecting this important interest. The proposed amendment for further restricting the authority of counties, towns, cities and villages to contract local indebtedness, must, in view of past experience, commend itself to the approval of the people. As to the increase in the number of Justices of the Supreme Court, there may be some question about its necessity in the Fourth and Sixth Districts ; and also, the addition of more than one Justice in the Seventh and Eighth Districts, respectively.

However, as the question of amendments to the organic law is within the province of the Legislature, and the electors of the State, when not remitted, so far as the Legislature is concerned, to a duly constituted convention, the subjects detailed, rest with such authority, and must thereby be determined.

BIENNIAL LEGISLATIVE SESSIONS.

The experience of two years in the discharge of executive duties has impressed me with the belief that the interests of the people would be promoted by the adoption of the plan for biennial sessions of the Legislature. Provision for the support of all departments of the State government can be made two years in advance, quite as well as for a single year ; and

under the present constitutional authority with reference to extraordinary sessions of the Legislature, during which no subject can be considered not embraced in the recommendations of the Governor, no embarrassment need arise about calling such extra meetings whenever necessity demands.

This policy would undoubtedly contribute to greater stability and efficiency in regard to laws; and would check in large degree the tendency to local and special legislation now encouraged. The attention of the Legislature would more likely be devoted to the consideration of general measures designed to conserve the public good, thus elevating the law-making power in the estimation of the people, and inducing greater respect for statutory enactments. The last revision of the Constitution provides for general legislation on many subjects; and there can be no doubt that more beneficial results in this respect would accrue if the sessions were less frequent. Several States have in recent years, changed from annual to biennial meetings, with especial advantage and satisfaction to the people.

To accomplish the object proposed, amendments to the Constitution will be required, both as to the legislative sessions and the term of service of the members. The Assembly should be chosen for two years; and if thought advisable the term of Senators might with advantage, be also lengthened. The adoption of such amendments as would meet the favor of one Legislature, would doubtless elicit discussion and consideration by the people that would furnish an intelligible guide to a succeeding Legislature in its action on the final deliberation to which the proposition would necessarily be subjected.

CONCLUSION.

Having thus, in obedience to the Constitution, communicated to you the condition of the State, permit me, in conclusion, to express my sincere desire cordially to co-operate

with you, in all harmony, for the perfection of every measure designed to advance public interests, and correct existing wrongs. The responsibilities which you have assumed cannot be over-estimated. The oath you have taken will not rest lightly, with duties neglected, or trusts abused. Statutes affecting the government of the greatest of States in the Union cannot be too carefully considered. Constant, unselfish and patriotic devotion to the duties awaiting you is essential to the honorable discharge of the obligations involved. May the Ruler of Nations inspire you with wisdom adequate to the performance of your trust, and acceptably to the great constituency which you represent ; that your work may redound to His glory, and to the honor and welfare of the people of this majestic Commonwealth.

ALONZO B. CORNELL.

ORDER DIRECTING THE ABATEMENT OF THE NUISANCE
CAUSED BY THE JONES BREWERY, OTHERWISE THE NEW
ROCHELLE BREWERY, IN WESTCHESTER COUNTY.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

To the owners, lessees, agents or managers of the Jones Brewery, otherwise the New Rochelle Brewery, situate in or near the village of New Rochelle, Westchester county ; and others whom it may concern :

Whereas, Complaint having been made to me of the existence of a certain nuisance, dangerous to life and detrimental to health, in the village of New Rochelle, Westchester county, caused by neglect, and the bad management, as alleged, of the outflowing drainage and washings from the Jones Brewery, otherwise the New Rochelle Brewery, in said village ; which said complaint having been by me referred to the State Board of Health for examination, pursuant to law ; and

Whereas, The State Board of Health having found and certified that the matters and things as complained, do exist, and having declared the same to be a public nuisance wholly caused by the said brewery, its owners and managers ;

Now, therefore, Take notice that it is hereby ordered, in accordance with authority in me vested by law, that the said nuisance as described, and caused by or consisting of the out-flowing matter from said brewery, the stables and other appurtenances therewith connected, shall cease, and be abated by you, the said owners, lessees, agents or managers of said brewery, so that it shall not in any manner pollute the atmosphere, or otherwise injuriously affect the health of the inhabitants of the village of New Rochelle and vicinity ; and in whatever manner and to whatever place the said waste or outflowing from said brewery and stables therewith connected, or other appurtenances thereto, shall be conducted, it shall be so done as not to be dangerous to the public health in, near or about the village of New Rochelle, or elsewhere ; and that such discharge of matters, substances or things before mentioned from the said brewery or other premises, shall not be directed into the stream known and described as Burling brook, at any point above, in, or below the village of New Rochelle, to its outlet, to the detriment of the health of inhabitants in that place or vicinity belonging. All of which that may be necessary to be done to abate, and wholly prevent thereafter, such nuisance as complained, to be done on or before the first day of April, 1882.

Done at the Capitol, in the city of Albany, this seventh
day of January in the year of our Lord one
[L. s.] thousand eight hundred and eighty two.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

SPECIAL MESSAGE, CALLING ATTENTION TO THE RAILROAD
DISASTER AT SPUYTEN DUYVIL AND THE RESPONSIBILITY
OF RAILWAY OFFICIALS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *January 18, 1882.* }

To the Legislature:

The occurrence of another railway accident, by which the lives of eight persons were sacrificed, and many other passengers more or less injured, recalls the importance of more effectual safeguards against these oft-recurring calamities. By this deplorable event the Senate is called to mourn the loss of its senior member; a man who was, in every relation of life, most highly esteemed; whose successful business career had made his name familiar throughout the country; and whose sad death is universally lamented. The tragic fate of your late associate, and the fact that the lives of many members of both branches of the Legislature were imperiled in that frightful casualty, are calculated to impress on your minds, with peculiar force, the vital and urgent need of prompt consideration of the subject of railroad disasters, and the means to prevent them.

That an accident that could have been so easily prevented, and which was, therefore, absolutely inexcusable, could occur on the line of the chief railway of this State, and within the corporate limits of the great metropolis, demonstrates most painfully the importance of some careful statutory provision with adequate penalties, to enforce obedience and responsibility in all necessary precautions for the conduct of railways. When we consider that the safety of 150,000 passengers, who daily patronize the several railroads within this State, depends on the prudent and vigilant management of these great highways of travel, we may in some degree appreciate the magnitude of the question under consideration.

The managers of the road had, with commendable prudence, adopted a rule for the government of their employes, in similar cases, which they deemed adequate for protection. Unfortunately, however, its execution devolved in this emergency, on the action of one human being. Whether the failure in this instance was due to culpable negligence, or to the mistaken judgment of the signal man, it is quite unnecessary here to consider. Absolute safety demands that a duty of such supreme importance to so many persons, should have for its execution the concurrence of at least two different persons. Aside from the question of watchful and diligent endeavor to perform the duty, it is easy to see how a single person might be accidentally disabled, and thus prevented from arresting the progress of an approaching train.

Certain rules with reference to the running of railway trains are indispensable to the safety of passengers, and faithful performance under such rules is quite as vital to the welfare of the community as the due observance of the laws of the State in other matters. It seems obvious, therefore, that such general regulations as are applicable to the safe and prudent direction of railroads should be enacted into statutes, with suitable provision of penalties both as against the companies and the individual officer or employe on whom the obligation of duty rests. Neglect or violation of these prudential methods is frequently, and notably in the recent instance, a crime meriting severe punishment, which existing statutes do not sufficiently provide. Whatever will tend to stimulate the vigilance and enforce the responsibility of railway officials; and furthermore, to increase the efficiency and watchfulness of individual employes, will just so far promote the comfort and safety of the multitudes of people who travel by rail.

The present means of heating and lighting railway cars is also a standing menace to the lives of passengers, while little, if any, care is taken to guard against the ravages of fire, so

frequently occurring, and thus adding to the horrors incident to collisions and other violent accidents. Hundreds of persons stood helpless by the burning train at Spuyten Duyvil; but would gladly have rendered assistance if provided with proper weapons to combat the flames. Without such requisites they were powerless to rescue the imprisoned passengers, or prevent the disfigurement by fire of those already dead. Trains should be required by law to be supplied with all available appliances for breaking into wrecked cars, and for the extinguishment of fire.

ALONZO B. CORNELL.

SPECIAL MESSAGE TRANSMITTING THE REPORT OF THE COMMISSIONERS APPOINTED TO RECEIVE THE NATIONAL GUESTS ON THE OCCASION OF THE YORKTOWN CENTENNIAL CELEBRATION.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *January 19, 1882.* }

To the Legislature :

Herewith is transmitted for your information the report of the Commissioners for the reception of the National guests, designated pursuant to Senate resolutions adopted June 21, 1881, in words following :

“STATE OF NEW YORK :

“IN SENATE, }
“ALBANY, *June 21, 1881.* }

“*Whereas*, The State of New York, during its long occupation of its chief city, was, for a long period, notably in the summer of 1781 and the fall of 1782, protected and succored by the troops which France, the ally of the United States, sent to their assistance ; and

“*Whereas*, After the victory of the allied forces at Yorktown, the city of New York remained, for a period of more

than two years in the occupation of the British troops, and in the disorganized condition of the State no opportunity was permitted to it to express its recognition of the services rendered by the French in protecting its soil and obtaining its deliverance ; and

“ *Whereas*, In response to an invitation of the Congress of the United States, the French government has signified its intention of sending a delegation to represent it at the laying of the corner-stone of the monument to the alliance on the ground of the victory ; therefore,

“ *Resolved*, That his Excellency the Governor be and hereby is directed and authorized to extend the courtesies of the State of New York in such manner as he may deem wise and proper, to the delegation of the French government, the family of Lafayette, and the descendants of the Marquis de Rochambeau, the Count de Grasse, and of such other general officers of the French army and fleet who served in the Yorktown campaign, as may visit the United States during the present summer, and it is further

“ *Resolved*, That his Excellency the Governor be and hereby is empowered to call to his aid such of the citizens of the State as he may select, to assist in the reception and entertainment of these honored guests, and he is hereby authorized to draw his warrant on the Treasurer of the State for such moneys as may be required for the purposes of this resolution.

“ By order :

“ JOHN W. VROOMAN,
“ *Clerk.*”

Although the resolutions in terms authorized the Governor “to draw his warrant on the Treasurer of the State for such moneys as may be required for the purposes of this resolution,” no appropriation having been made for the purpose specified, there was no money available to defray expenses, and it did not appear proper to me, in view of that fact, to authorize any expenditure on behalf of the State. Accordingly, therefore, fifteen citizens, residing in New York city and vicinity, were designated and requested to serve as a

commission of reception. They were at the same time expressly notified that no liability against the State could be authorized.

The commission thus appointed consisted of the gentlemen named, as follows :

JOHN A. KING,
FREDERICK W. SEWARD,
HAMILTON FISH, JR.,
WILLIAM W. ASTOR,
CORNELIUS VANDERBILT,
ROBERT RAY HAMILTON,
WILLIAM JAY,
LLOYD ASPINWALL,
HORACE RUSSELL,
ALFRED C. BARNES,
JAMES M. VARNUM,
FRANCIS C. BARLOW,
JOHN AUSTIN STEVENS,
WILLIAM RHINELANDER STEWART,
ROBERT E. LIVINGSTON.

The commissioners cordially and promptly accepted the duty intrusted to them and devoted themselves assiduously to its discharge, which was accomplished in a manner alike honorable to the State in whose name they acted, and creditable to themselves as citizens. Indeed, it is becoming to say that their action was in the highest degree worthy of the great State whose hospitalities they were directed to extend to the distinguished guests ; and it is my especial desire to bear testimony to their service, so zealously and efficiently rendered in true public spirit. Besides much time devoted by the commissioners, they personally contributed several thousand dollars for the payment of hotel bills, carriage hire and other expenses, so that neither for maintenance nor travel were the National guests allowed to expend a single dollar within the borders of our State.

Certainly, it was not contemplated by me in naming the commissioners, that they should assume the burden of such outlay, but as they conceived it to be proper to take it upon themselves in order to carry out the spirit of the resolutions, it would seem but just that the State should promptly reimburse them. It is, however, due to them to apprise you that several of the commissioners stated to me that the expenses were incurred without expectation of return, and that they did not desire it. Moreover, two of them at least, have requested that no recommendation looking to their reimbursement should be made. It would, nevertheless, be manifestly improper to allow private citizens to defray the expense of entertaining on behalf of the State, guests coming from abroad in the capacity of national representatives on the invitation of the general government, to be present at the centennial celebration of the triumph of the allied forces at Yorktown.

It is, therefore, recommended that suitable appropriation be made to enable the Comptroller to reimburse the commissioners for such expenditures as have been properly made by them.

YORKTOWN CENTENNIAL.

It seems appropriate in connection with the foregoing subject, to make brief reference to the representation of the State at the celebration of the centennial anniversary of the surrender of the British forces at Yorktown, last October. Congress appropriated \$100,000 for the erection of an imposing monument on the historical ground where the surrender occurred, and provided for a becoming observance of the centennial celebration, to include the laying of the corner-stone of the projected monument. The general arrangements were intrusted to a committee composed of Senators and Representatives in Congress. Invitations were extended to the French government and to the several States, requesting formal representation on the occasion, and also, to the descendants of the

principal officers of the allied armies. France formally accepted the invitation and sent a deputation of nearly forty persons, about one-half of whom were lineal descendants of Lafayette, De Rochambeau, De Grasse, and other illustrious officers who participated in our Revolutionary struggle.

The celebration began on the 18th of October, lasting three days, and was a successful demonstration. Among those present were the President and Cabinet, prominent officers of the Army and Navy, many of the Senators and Representatives in Congress, besides a considerable detachment of regular troops, and a naval force with ships of war. Nearly all the States took some part in the celebration. More than twenty were represented by their chief Executives, and quite that number were represented by regiments or companies of State troops. The State of New York participated by the presence of the Governor and staff, the Thirteenth regiment, accompanied by Dodsworth's band, a portion of the Sixty-fifth and Seventy-fourth regiments, and the Ninth separate company ; as well also, by a large number of prominent citizens. The New York troops presented an excellent appearance, and did great credit to the State by their admirable behavior.

The event was in every way commendable to the country ; and the cordial commingling of citizens and soldiers from different sections of the Union, on that memorable spot and at the particular time chosen, should exert a salutary influence throughout our whole domain. The revival of the patriotic memories of the Revolutionary period inspired those present with renewed devotion to the Union ; and will, let us hope, promote a new spirit of loyalty for the future.

ALONZO B. CORNELL.

SPECIAL MESSAGE RECOMMENDING THAT THE PORTRAIT OF
PRESIDENT LINCOLN BE PLACED OVER THE ENTRANCE TO
THE SENATE CHAMBER.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *January 20, 1882.* }

To the Legislature :

In 1873, the Legislature, by concurrent resolution, authorized the Lieutenant-Governor and Speaker of the Assembly to contract for the painting of a whole-length portrait of Abraham Lincoln, to be placed in the Governor's room of the Capitol. Pursuant to such authority, an excellent portrait of the martyr President was executed and paid for under a special appropriation. The picture came into the possession of the State several years ago, and was placed in the State Library for safe keeping to await the completion of the apartment in the New Capitol for which it was designed. Soon after the formal occupation of the new Executive Chamber directions were given for placing the portrait therein ; but the available space was found insufficient, the figure being of heroic size, and requiring a more elevated position than can be secured in the Chamber, in order to afford a proper and imposing view. On that account, therefore, a suitable display of the painting cannot well be had in the Governor's room, and it seems desirable that some other disposition of the picture should be made than was originally designed. With this view, an examination of the several apartments of the Capitol, in company with the building Superintendent, leads me to recommend that the portrait be placed in the Senate Chamber over the main entrance. Thus hung, it will present a fine appearance and add to the attractiveness of the Chamber. In consequence of the former legislative action designating the repository of the picture, it is desirable that the change of location be authorized by joint resolution of the two Houses.

ALONZO B. CORNELL.

PROCLAMATION CALLING A SPECIAL ELECTION FOR SENATOR
IN THE EIGHTEENTH SENATE DISTRICT.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

Whereas, a vacancy exists in the office of Senator for the Eighteenth Senate district of the State of New York, in consequence of the death of Webster Wagner ;

Now, therefore, by virtue of the authority vested in me, a special election is hereby ordered to be held in and for the said Eighteenth Senate district, comprising the counties of Saratoga, Fulton, Hamilton, Montgomery and Schenectady, on Tuesday, the twenty-eighth day of February next, for the purpose of choosing a Senator in the place of the said Webster Wagner, deceased, whose term of office began on the first day of January, 1882, and will expire on the thirty-first day of December, 1883.

Given under my hand and the Privy Seal of the State, at the Capitol, in the city of Albany, this twenty-
[L. s.] fifth day of January, in the year of our Lord one thousand eight hundred and eighty-two.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

PROCLAMATION OF REWARD FOR THE MURDERER OF SIMON
A. VANDERCOOK.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

Whereas, on the 10th day of January instant, in the town of Austerlitz, county of Columbia, in this State, Simon A. Vandercook, a resident of the State of Massachusetts, was murdered, as alleged, in an atrocious manner, by some person or persons not yet apprehended ;

Now, therefore, a reward of five hundred dollars is hereby offered, to be paid to any person who shall cause the arrest and conviction in this State of the party or parties who committed the murder of the said Simon A. Vandercook.

Given under my hand and the Privy Seal of the State, at the Capitol, in the city of Albany, this twenty-
[L. S.] sixth day of January, in the year of our Lord one thousand eight hundred and eighty-two.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

PROCLAMATION DECLARING THE TOWN OF GREENWOOD,
STEUBEN COUNTY, TO BE IN A STATE OF INSURRECTION.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

Whereas, it is complained to my satisfaction, that the execution of civil process of law has been forcibly resisted or prevented by bodies of men unlawfully assembled, and that combinations exist to resist by threats, force or violence, in the county of Steuben in this State, and in the town of Greenwood, in said county, the execution of process issued and taken in the ordinary and lawful manner and form for the enforcement of the laws relating to the collection of taxes; and it having been made known to me that the power of the county has been exerted, but has not been sufficient to enable the officers of the law having process, to execute it in the said town of Greenwood ;

Now, therefore, by virtue of the authority in me vested, proclamation is hereby made declaring the said town of Greenwood, county of Steuben, as to the matters and things specified and complained, to be in a state of insurrection, and warning all persons now and hereafter to desist from any attempt to

commit any violation of the public peace, or threat to do the same, or any attempt or threat to resist or prevent any officer of the law from executing any process he has been commanded legally to enforce in the said town of Greenwood, county of Steuben ; and all persons not lawfully or peaceably assembled in said town of Greenwood, or not met for lawful or peaceful purposes, are hereby commanded to disperse and depart to their respective places of abode ; and all officers of the law especially directed or commanded to enforce any legal process, or perform any other official duty in connection with the enforcement of the law for the collection of taxes, and for the preservation of the public peace, are hereby ordered and commanded to do the same and to give no help, aid or recognition to any person or persons attempting, combining or conspiring to resist or defeat due process of law.

Given under my hand and the Privy Seal of the State, at
the Capitol, in the city of Albany, this eleventh
[L. s.] day of February, in the year of our Lord one
thousand eight hundred and eighty-two.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

VETO, SENATE BILL, INTRODUCTORY NUMBER 140, INCORPORATING THE SING SING BRANCH OF THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *March 6, 1882,* }

To the Senate :

Senate bill, introductory number 140, entitled "An act to incorporate the Sing Sing branch of the American Society for the Prevention of Cruelty to Animals," is herewith returned without approval.

Provision has heretofore been made by law for the incorporation of a society with general and ample powers, for the prevention of cruelty to animals in this State, which has been in active and successful operation for many years. Under the authority of its charter, this society has organized a considerable number of branch or auxiliary associations at different points in the State, including the one at Sing Sing. This bill proposes to create a special incorporation composed of the members of the parent society, residing at Sing Sing, with exclusive authority for self-perpetuation, and to invest it with certain very extraordinary powers.

The Constitution provides that "corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where in the judgment of the Legislature the object of the corporation cannot be attained under general laws." If the bill under consideration does not literally come within this restrictive clause, it is certainly repugnant to the spirit of the Constitution, and in a case of urgent necessity only could any departure from it be possibly, if at all, justified. Should it be deemed wise to authorize independent incorporations of the branches of the general society, or of isolated local societies for similar objects, it should be done by general law, and thus accord both in letter and spirit with the organic law as quoted.

By the terms of the accompanying bill the proposed corporation is to consist of twelve persons named in the bill, and when vacancies happen, by death or resignation, they are to be filled by those remaining. Unlike other associations of various kinds there is a singular omission in the bill of any mode for the admission of additional members, which, though possibly not intended, would give the society an exclusive privilege of membership. It is respectfully submitted that associations vested with corporate powers should not be organized on such a narrow basis as the one proposed.

The eighth section of the bill provides that all fines imposed and collected by any magistrate for the violations of the statutes for the prevention of cruelty to animals within the town of Ossining shall be paid over, after deducting the proper costs of the proceeding, to the treasurer of the society for its use. If any portion of fines is to be appropriated to such society the law should declare definitely what it shall be, in order to secure the necessary and proper accountability of the officials whose duty it is to collect and account for the fines imposed.

One of the most objectionable features of the bill, however, is contained in the ninth section, which proposes to confer on any agent duly appointed by the executive committee of the society, the powers of a town constable to make arrests for violations of the statutes referred to. This provision cannot be otherwise considered than in direct conflict with the second section of article ten of the Constitution, which defines the mode of appointment of all local officers. It certainly is not competent for the Legislature to endow a corporation with authority to appoint public officers of the character contemplated, however insignificant the functions they may be authorized to exercise.

ALONZO B. CORNELL.

LETTER TO HON. ISAAC V. BAKER, JR., SUPERINTENDENT
OF STATE PRISONS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *March 11, 1882.* }

DEAR SIR: Now that the Senate has confirmed your nomination as Superintendent of Prisons, and you are about to enter upon the important duties of that office, a suitable occasion is presented to emphasize, in formal manner, the suggestions verbally made by me prior to the appointment.

That you may be thoroughly impressed with a due sense of the public interests involved, is a sufficient reason for this expression of my views with reference to the subject considered.

In the adoption of the constitutional amendment changing the system of prison management, and creating the office of superintendent, the people were evidently impelled by the desire to divorce the prisons from political influences or interference. In like spirit the Legislature especially provided in the law carrying that amendment into effect, that "no appointment shall be made in any of the prisons of this State on grounds of political partisanship; but honesty, capacity and adaptation shall constitute the rule for appointments, and any violation of this rule shall be sufficient cause for removal from office of the superintendent." Nothing can be plainer than that the superintendent is thus admonished carefully to avoid all political considerations in the conduct of prison affairs, and it is my settled purpose to see that such course be faithfully and honestly pursued, both in the letter and spirit of the law. From this time forth the prisons will be expected to be managed on a strictly business basis, regarding solely economical maintenance, thorough discipline, regular and orderly direction of prison industries, and the safe-keeping, health and general well-being of the convicts.

The Constitution provides that the superintendent shall appoint the wardens, physicians and chaplains; and that the wardens shall appoint the subordinate officers, subject to the approval of the superintendent. Inasmuch as no specified term of service is prescribed, and it being obvious that experience promotes the efficiency of competent officers, it must be supposed that these officials are to hold during good and acceptable service. You will make no inquiry as to the political faith of any subordinate, but will simply satisfy yourself whether he be competent, honest and attentive to

duty, and thus suitably adapted to render useful and satisfactory service to the State. In which case, if so found, he must be continued, at his option, in employment. If, however, any be found incompetent, intemperate, or neglectful of duty, it will be incumbent on the proper authority to remove them, regardless of political, personal or any other consideration. Except for good and sufficient cause, satisfactorily proved, the arbitrary removal of prison officials should and must henceforward cease. Under no circumstances will the manipulation of prison appointments be permitted or excused on any other grounds than those stated.

With this understanding the position of superintendent was tendered to you ; and the pledge given that it would be faithfully observed, will be held to invariable compliance. Under such conditions you now enter upon the discharge of official duties, the performance of which will be required, with rightful accountability, in the manner and spirit indicated. What was ordained by the people as a necessary reform in prison management, so long hitherto a scandal and disgrace to the State, must be well and zealously prosecuted in the future conduct of the institutions under your charge.

Yours respectfully,

ALONZO B. CORNELL.

Hon. ISAAC V. BAKER, Jr.

SPECIAL MESSAGE TRANSMITTING THE DRAFT OF A BILL
PROVIDING FOR AN ENCAMPMENT OF THE NATIONAL
GUARD OF THE STATE.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *April 25, 1882.* }

To the Legislature :

To promote the efficiency and usefulness of the National Guard, when required for actual service, the Military Code of

this State authorizes the annual assembling of a part of the Guard in camps of instruction, provided that not more than ten thousand men in the aggregate may be so assembled in any one year. Hitherto the expense necessary to maintain the military establishment has rendered it impossible to provide for such camps of instruction out of the appropriations made for military purposes. During the past two years, however, the force has been reduced in number from 20,000 to about 12,000 men, in order that those remaining in the service could be provided with camp experience and with exercise in the field, without an increase of the ordinary expenses of this department.

While the law is ample for the organization of a camp of instruction, a careful examination discloses the fact that it does not authorize the purchase of the necessary site therefor ; and in view of the expense required to properly equip a camp for use, it is not deemed prudent to make such an investment on leased ground. It is highly desirable that a portion of the troops should be encamped the present season, and selections have already been made of several regiments for such purpose. To enable the military department to discharge a duty which is deemed essential, and even vital to the maintenance of a proper and effective National Guard in this State, authority is desired to acquire and improve the necessary site. For this purpose the accompanying bill has been prepared by my direction and is herewith respectfully transmitted to the Legislature with the hope that it will receive your early and favorable consideration.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, INTRODUCTORY NUMBER 465, ES-
CHEAT, RELEASING TO JOHN McLAUGHLIN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *April* 26, 1882. }*To the Assembly :*

Assembly bill, not printed, introductory number 465, entitled "An act to release the right, title and interest of the people of the State of New York, in and to certain real estate in the city of Brooklyn and county of Kings, or the proceeds of the sale thereof, to John McLaughlin," is herewith returned without approval.

Under the operation of law there has come into the possession of the State the sum of nine hundred and sixty-three 50-100 dollars, which this bill proposes to donate to one John McLaughlin, a British subject residing in Ireland. If propositions of this character are to be enacted into law there is no reason why the existing statutes relating to the descent of property in case of alienage, should be continued in force.

Aside from the fact that under the present circumstances the person named has no legal claim against the State, there is a special objection to this bill in the fact that the application is made ostensibly in his behalf by other parties, with not a particle of evidence in the accompanying papers to show that the proposed beneficiary has any knowledge of this measure, or indeed, that he is aware of the foundation of the claim as set forth.

In every aspect of the case it is apparent from an examination of the papers submitted, that the bill is altogether objectionable on both legal and equitable grounds, and should not, therefore, be permitted to become a law.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 66, AUTHORIZING THE GOOLESON FIRE ENGINE COMPANY NO. 2, OF WINFIELD, QUEENS COUNTY, TO CHANGE ITS CORPORATE NAME.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *April 26, 1882.* }

To the Senate:

Senate bill No. 66, entitled "An act to authorize the Gooleson Fire Engine Company No. 2, of Winfield, Queens county, to change its corporate name," is herewith returned without approval.

Existing laws abundantly provide for the change of corporate names by the courts, and except in some emergency which would justify other action, this course should be observed in all cases. While there is no positive constitutional bar to this bill, it is clear that it was the intention of the framers of the Constitution to discourage legislation of this character. It is difficult to see how a proposition to change the name of a fire engine company can be regarded as of sufficient importance to warrant the enactment of a special statute.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 27, FOR THE RELIEF OF HEIRS OF WILLIAM MEYER.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May 2, 1882.* }

To the Senate:

Senate bill No. 27, entitled "An act to release the interest of the people of the State of New York in and to certain

surplus moneys arising upon the sale of certain lands of which William Meyer died seized," is herewith returned without approval.

The sum of \$7,137.34 has come into the right or possession of the State as the avails of certain real estate sold under foreclosure of mortgage, which was the property of one William Meyer in his life-time. It appears that Meyer was an illegitimate son of an unknown father, and had come to this country, and was for many years wholly isolated from all association with his family relatives. This bill proposes to give this money to certain parties residing in California, who claim to be the descendants of a sister of Meyer's mother. They have never been residents of this State, and do not appear to have any reasonable claim upon the estate of the deceased. On what principle of right and justice it is proposed to take this amount of money from the State it is difficult to understand. It has come to the State under the due operation of law, and it is quite as much the property of the State as though it had been derived from any other legal source.

Had there been the ordinary ties of family association and relationship between Meyer and the parties in question, it is quite possible that the proposed appropriation might be justified. But that such a donation should be made to persons who, to all intents and purposes, were strangers to Meyer, is quite another question. The fact that they can trace their lineage and establish kinship with him is not a sufficient reason why the State should release its rights to them.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 242, REGULATING THE STANDARD OF ILLUMINATING OILS AND FLUIDS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May* 4, 1882. }

To the Assembly:

Assembly bill No. 242, entitled "An act to regulate the standard of illuminating oils and fluids for the better protection of life, health and property," is herewith returned without approval.

This measure provides for the appointment of a general inspector and twenty-five deputy inspectors, who are required to test and examine all illuminating oils manufactured and offered for sale in this State; and prohibits the sale of any such article not duly inspected and branded. The bill is substantially identical with the one passed by the preceding Legislature; and which was returned without approval for reasons stated at length in the message accompanying it. All of the objections then noted are fully applicable to this bill, and further consideration of the subject has sufficed rather to confirm the opinions then expressed.

The Constitution provides that "all offices for the weighing, "gauging, measuring, culling or inspecting any merchandise, "produce, manufacture or commodity whatever, are hereby "abolished, and no such office shall hereafter be created by "law; but nothing in this section shall abrogate any office "created for the purpose of protecting the public health
" * * * * ,"

Unless it can be established that so large a proportion of illuminating oils offered for sale is dangerous, that it is unsafe to permit traffic in them without inspection, this constitutional prohibition seems to be an absolute bar to the system proposed. Such, however, can hardly be supposed, when it is considered how seldom accidents happen from other causes

than carelessness, in view of the almost universal use of these oils for domestic purposes.

To bring the inspection of oils within the constitutional limit, it must be confined to such as warrant reasonable suspicion of danger. The State might very properly define by law the precise and safe standard, and prohibit dealing in such as do not conform thereto, with suitable pains and penalties. To make the law effective, also, an inspection of dangerous substances could, no doubt, be provided in a manner not repugnant to the organic law, nor expensive to the very great number of consumers. For it is very clear that the cost of any system of inspection would ultimately fall upon those who use illuminating oils, in an advance on the price fixed by the manufacturer and dealer. Furthermore, serious objection may be urged to such a complicated scheme as proposed, on the ground that it would unnecessarily burden and annoy a legitimate branch of trade and industry. The system devised is far-reaching, and would unquestionably prove offensive in its operation to both consumer and dealer. While it is important to guard against the danger of explosive oils, it seems clear that the end can be effectually accomplished without resort to means that would prove obnoxious in some particular to all classes; and care should, therefore, be taken to avoid the application of extreme and excessive measures.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 497, AMENDING THE CHARTER
OF THE CITY OF BROOKLYN, RELATING TO THE CUSTODY
OF THE PUBLIC SCHOOL FUNDS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, May 4, 1882. }

To the Assembly:

Assembly bill No. 497, entitled "An act to amend chapter

863 of the Laws of 1873, entitled 'An act to amend the charter of the city of Brooklyn, and the various amendments thereof,' " is herewith returned without approval.

It is proposed in the accompanying bill to remove the custody of the public school funds of the city of Brooklyn from the Board of Education to the city treasury. Whatever may be said as to the propriety of making such a change, this bill does not seem to be in proper shape to accomplish the object sought. It simply provides for an amendment of the city charter without amending the laws relative to the Board of Education.

An examination of existing laws presents the fact that the Board of Education is an independent corporation, capable of suing and being sued, and vested with the title of all property acquired for school purposes in the city of Brooklyn. Numerous laws are also in force giving to the board the custody and control of the school moneys; and these would be antagonized by the enactment of this measure from which, it may be reasonably predicted, confusion and legal complications would inevitably flow.

If the public interests require a change in the system of handling and accounting for the school funds of the city of Brooklyn, it should be secured by a careful revision of all the laws relating to the subject, in order that a complete and practical plan be secured, free from all possibility of conflict between the various departments of the city. It is respectfully submitted, therefore, that this bill ought not to become a law in its present form.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 258, INCREASING THE COMPENSATION OF THE POLICE FORCE OF THE CITY OF BINGHAMTON.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May 5, 1882.* }

To the Assembly :

Assembly bill No. 258, entitled "An act to amend chapter 90 of the Laws of 1881, entitled 'An act to amend chapter 6 of the Laws of 1881, entitled 'An act to organize and establish a police force for the city of Binghamton,' " is herewith returned without approval.

The object of this bill is to increase the compensation of the police force of the city of Binghamton as prescribed by the act which it is proposed to amend. The same act provides that the members of the force shall have an unlimited tenure of office, except as they may be removed under certain specified forms of procedure by the police commissioners. It is, therefore, not competent for the Legislature to increase the emoluments of the men now in service.

The eighteenth section of article three of the Constitution provides that "the Legislature shall not pass a private or local bill * * * * * creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed." Section twenty-four of the same article declares that "the Legislature shall not, nor shall the Common Council of any city nor any Board of Supervisors, grant any extra compensation to any public officer, servant, agent or contractor." These two provisions were added to the Constitution by vote of the people in 1874, and were intended to prohibit and prevent improvident legislation. Although these restrictions might be avoided, if the accompanying bill were enacted, by allowing the men to resign and be reappointed, it would be such a manifest evasion of the intent of the Constitution that it would be entirely unjustifiable.

ALONZO B. CORNELL.

VETO, SENATE BILL, INTRODUCTORY NUMBER 516, LEGALIZING THE REFUNDING BY THE TOWN OF SANGERFIELD, ONEIDA COUNTY, OF MONEY PAID BY MARVIN J. WEST, AS SURETY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May 9, 1882,* }

To the Senate :

Senate bill, not printed, introductory No. 516, entitled "An act to legalize the action of the electors of the town of Sangerfield, Oneida county, New York, in voting to refund to Marvin J. West the money paid by him to the town as one of the sureties on the official bond of the supervisor," is hereby returned without approval.

The Constitution expressly prohibits any county, city, town or village from giving any money or property to or in aid of any individual. It is, therefore, incompetent for the people of Sangerfield to refund money paid by the surety on an official bond, and the Legislature is powerless to legalize or confirm such an act.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 103, GIVING TO THE DEFENSE THE RIGHT OF THE CONCLUDING ADDRESS TO THE JURY IN CAPITAL CASES.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY. *May 9, 1882.* }

To the Assembly :

Assembly bill No. 103, entitled "An act regulating the trials of persons in capital cases and giving the defense the right of the concluding address to the jury," is herewith returned without approval.

For many years there has been a gradual tendency in legislation with regard to criminal law, to render conviction for grave offenses more difficult and uncertain. One impediment after another has been placed in the way by statutory enactment, until the conviction of a person indicted for crime has become almost a matter of surprise, when defended by able counsel. Enforcement of the law is thus constantly prejudiced and retarded, while too little is done to promote the ends of justice and bring evil doers to deserved punishment. No wonder, therefore, that a lack of confidence in the administration of the penal statutes is so generally felt. Such tendencies to lessen the chances of conviction cannot fail to engender disregard and contempt of law, and embolden the dangerous classes to more reckless and defiant conduct. On the other hand, it cannot well be doubted that the certainty of punishment would exert a potent and salutary influence for the prevention of crime. Failure to convict on account of some technical omission, or insufficient provision of law, of consequence affords constant encouragement to violators, who thereby take greater and more frequent chances in the commission of unlawful acts. While it is conceded that the plea of humanity should be duly heeded, yet it must be remembered that the interests of society demand that crime shall be speedily and surely punished. Abundant safeguards already exist for the protection of the innocent, hence little danger of unjust conviction need be apprehended. Under our Constitution acquittal is a guarantee of immunity against further prosecution on the same charge. But there is no remedy for the miscarriage of justice in the case of the guilty who chance to escape the judgment of the law. Moreover, that no unjust penalties may be borne if wrongfully convicted, the condemned always has recourse either to the courts of justice or Executive clemency to correct an error or right a wrong.

Although the enactment of the accompanying measure

might not in itself produce any marked change in the administration of justice, still it is certainly a step in the wrong direction; and in this view it is objectionable. It would be tantamount to a notice to criminals that their chances of escaping conviction were to be increased; and the effect in this respect could not be otherwise than unfortunate and prejudicial to the safety of life and property.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 153, AUTHORIZING THE EXPENDITURE OF BALANCES IN THE HANDS OF THE BOARD OF PUBLIC INSTRUCTION OF THE CITY OF ALBANY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May 15, 1882.* }

To the Senate:

Senate bill No. 153, entitled "An act to authorize the board of public instruction of the city of Albany to expend unexpended balances in their hands or to their credit to meet deficiencies in the annual appropriation for specific school purposes," is herewith returned without approval.

The school funds provided by local taxation in the city of Albany are levied by the common council upon estimates made by the board of public instruction. The common council has no authority to review the estimates, which are subject to the mayor's veto; but they may be carried over it by a three-fourths vote of the board of public instruction. Thus it appears that the limit on the amount of money to be raised for school purposes is dependent only on the approval of three-fourths of the educational board. The expenditures of the board are now confined to the amount raised for each designated purpose; and all unexpended balances on hand at the end of the year are to be contributed to the sinking fund for the extinguishment of the bonded indebtedness of the city.

The accompanying bill proposes to authorize the board of public instruction to use any unexpended balance of a particular fund to meet any deficiency that may occur in any other fund during the year. The object of limiting expenditures within the amount raised for each specified purpose is to insure a careful consideration of all items of expense, and to hold the board to a proper accountability in the performance of its trust. The unavoidable result of the enactment of this bill would be to encourage improvident expenditure, and lessen the responsibility of the board. To provide for a deficiency is the surest way to create one; while if there be no expedient, the board will be more likely to exercise its best effort to avoid such contingency.

With this provision engrafted on the law governing the board of public instruction, it is easy to see how expenditures might be indefinitely extended. For instance, moneys raised for the building or repair of school houses, may be diverted to the payment of salaries, or any of the current or ordinary purposes under the jurisdiction of the board. The composition of the present board of instruction is of such character that no improper diversion of funds need be apprehended; but the membership of the board will undergo changes from year to year, and there is no guaranty that it will always remain as at present constituted. It is certainly more prudent to preserve the present safeguards against extravagant expenditures, even though inconvenience be sometimes experienced, than to bring within the sanction of law authority which might be easily abused, and which would offer constant temptation to trespass upon one or another fund, that should be held sacred to its original purpose.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 166, MAKING IT MANDATORY FOR THE GOVERNOR TO APPOINT TWO WOMEN ON EACH BOARD OF MANAGEMENT OF STATE CHARITABLE OR CORRECTIONAL INSTITUTIONS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER. }
ALBANY, *May* 12, 1882. }

To the Assembly :

Assembly bill No. 166, entitled "An act authorizing the appointment of women in the boards of trustees or managers of State charitable, correctional, reformatory or eleemosynary institutions where women and children are cared for," is herewith returned without approval.

By the terms of this bill it is proposed to make it mandatory on the Governor to appoint at least two women, to the membership of the managing boards of all State charitable and correctional institutions where women or children are cared for, except the Willard Asylum at Ovid. The wisdom and propriety of making the appointment of women to these positions imperative, may well be questioned. Two ladies are now serving as members of the State Board of Charities, under appointment of the Governor and Senate, and two others by like authority, are trustees of the Women's Reformatory. Vain effort was made two years ago to find two ladies who would take appointment as trustees of another State institution. Those deemed qualified and selected for the trust, were unwilling to allow the use of their names, and the proposition was, therefore, necessarily abandoned. It is feared from this experience that embarrassment might often be encountered in finding women suited to the duties, and willing to accept such positions. It would certainly be unfortunate to require the appointment of women in cases where suitable ones could not be found to serve. If, however, there were now any doubt of the eligibility of women for these

places, it would be manifestly desirable to remove all disability, in order that such appointments might be made when deemed appropriate. No question has ever been judicially raised on this point, and it is not believed that any objection could be successfully maintained.

In many charitable organizations women are doing noble work to reclaim the fallen and smooth the pathway of the unfortunate. There can be no doubt that much good will come from their participation in the official management of State institutions. Those already appointed have rendered invaluable services, and others will probably be chosen from time to time, as circumstances seem to warrant. The recent law making women eligible as school trustees has produced admirable results, not only in securing the election of many of them as trustees of schools, but especially in elevating the qualification of men proposed as candidates for school boards; and also in stimulating greater interest in the management of schools generally. The effect of these new experiences is to widen the influence and usefulness of women; and while fully sympathizing with the spirit which has promoted the passage of this bill, it is respectfully submitted that its arbitrary provision would possibly produce reaction, and thereby embarrass the very object which it seeks to advance.

That clause of the bill excepting the Willard Asylum is also regarded as especially objectionable. If desirable that women should be selected as managers of any of the asylums for the insane, there certainly should be no exemption made of the Willard Asylum. That institution contains much the largest number of females of any in the State, and they are mostly of the poorer classes, whose friends are the least able to give attention to their condition or necessities. This exception would practically exclude women from the administration of the affairs of that asylum, which, of all others, might need their counsel and co-operation most. Considering

the subject in every detail, it is believed that public interests will be better conserved by leaving the selection of trustees to the discretion of the appointing power than to run the risk of making mandatory requirements which could not always be satisfactorily carried out.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 74, IN RELATION TO THE SALE
OF FURNITURE, ETC., ON THE INSTALLMENT PLAN.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *May* 15, 1882. }

Assembly bill No. 74, entitled "An act in relation to selling furniture, bedding, sewing machines or household utensils upon the plan of requiring monthly or stated payments," is herewith returned without approval.

The object of this bill is to require dealers in certain articles of domestic use, when selling on credit involving payment by installments, to stipulate for the re-payment of twenty-five per centum of all sums paid in case of the foreclosure of their liens on such articles for non-payment; and the recovery of all such property in default of payments is prohibited until twenty-five per centum of all moneys paid thereon shall have been returned or tendered to the purchaser. No provision is made as to the condition of the articles, to the injury or wear done and sustained, nor to the length of time they may have been used by the defaulting purchaser.

Regardless of detail, the measure appears to be objectionable on general grounds. It interferes with and hampers legitimate trade, thereby infringing on private rights. The selling of household goods on a systematic credit plan, of late years quite common, enables many families to surround themselves with necessities, and luxuries also, not ordinarily

within their reach. While such opportunity may, in a degree, lead to extravagance, yet the practice of saving, and the accumulation of property, from earnings that might otherwise be wasted in profligate habits, are quite likely to be encouraged. Formerly the installment system was confined to a few, and abuses were of frequent complaint; but since the extension of the business, and the multiplied number of dealers, competition has cured the main evils.

It is difficult to understand why traffic in the articles named in the accompanying bill should be placed upon a different basis from all other personal property. Purchasers without ready means need the very best credit they can obtain to enable them to make advantageous transactions. The enactment of this bill would manifestly reduce the value of security which is now afforded by liens on personal property. Its effect would be evidently injurious to the very class of people whom it is probably intended to protect. Dealers would save themselves harmless by advancing the price of goods and exacting such conditions as would make up for the adverse liability imposed upon them.

Furthermore, the bill is violative of a principle, which, if not expressly enunciated in the Constitution, is clearly in accord with the spirit of that instrument. It seeks to make a distinction between classes of dealers, discriminating against those who operate, on the installment plan, in certain articles enumerated, while others, who deal in a different kind of goods, merchandise or implements, on the same plan, are placed under no restrictions whatever. If the object of the bill be a good one, manifestly its provisions should extend to all. To single out particular ones, excepting all the rest, is conspicuously invidious and objectionable. It is supposed that the remedy sought to be applied is for some defect or abuse in the system. If this be so, obviously then, the law should be directed to that end only, without distinction or

immunity. The right to deal in any lawful article of merchandise is one of the plainest privileges of citizenship, and it may fairly be questioned how far the Legislature is authorized to interfere with legitimate traffic. The theory of our form of government is, to afford the largest liberty in the exercise of all natural rights. And unreasonable interference with the ordinary current of trade is an invasion of the rights of the people and unwarranted by the Constitution.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 144, ESTABLISHING THE OFFICE
HOURS OF THE CLERK OF THE COUNTY OF ALBANY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 15, 1882. }

To the Assembly :

Assembly bill No. 144, entitled "An act in relation to the keeping open the office of the clerk of the county of Albany," is herewith returned without approval.

The present Legislature has, by a general act pursuant to the twenty-third section, article three of the Constitution, conferred upon boards of supervisors full authority to regulate the hours for keeping open public offices in their respective counties. The accompanying bill is, therefore, inconsistent with the provisions of the eighteenth section of the same article, if not positively repugnant thereto. This amendment of the Constitution was evidently designed to prohibit the enactment of local and special laws, in all cases where general laws may be provided. Inasmuch as the supervisors are now invested with authority to legislate upon this subject, it does not seem appropriate that the Legislature should continue to enact local laws on the same subject.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 303, IN RELATION TO CLOSING
CERTAIN PUBLIC OFFICES IN NEW YORK AND KINGS
COUNTIES ON SATURDAYS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May* 15, 1882. }

Assembly bill No. 303, entitled "An act in relation to closing certain offices in the counties of New York and Kings on Saturdays," is herewith returned without approval.

This bill proposes to authorize the closing of certain county offices in New York and Kings counties, and certain municipal offices in the city of Brooklyn, at twelve o'clock, noon, on Saturdays, from the fifteenth of June until the fifteenth of September in each year hereafter. Aside from the very questionable policy of authorizing the closing of important public offices for several hours during the business part of the day, there are several specific objections to this measure which seem to render its enactment improper.

1. Chapter 118 of the Laws of 1882 confers upon the board of supervisors of Kings county full authority to regulate the hours for opening and closing the county offices within their jurisdiction. It is questionable whether the Legislature now possesses the constitutional authority to pass a local bill on this subject.

2. In regulating the office hours of county and municipal offices the bill embraces two different subjects. It is therefore in conflict with the Constitution, which restricts a local bill to a single subject which must be expressed in its title.

3. The title is also defective in making no reference to the Brooklyn city offices which it proposes to regulate.

These offices are maintained at the public expense and should be conducted in such manner as will best serve the public convenience. This can only be assured by providing that they remain open during the ordinary business hours of

the community in which they are situated. No reason is apparent why there should be discrimination in regard to the particular offices named in this bill. If they were to be closed at noon on Saturdays during the summer months, why should not the same rule be applied to other public offices in the same locality? In general and in detail, the bill is objectionable, and should not, therefore, become a law.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 559, AUTHORIZING THE BUFFALO CEMETERY ASSOCIATION TO ACQUIRE LAND.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May* 15, 1882. }

Assembly bill No. 559, entitled "An act to authorize the Buffalo Cemetery Association to acquire additional land, and to erect a building for office purposes," is herewith returned without approval.

The Buffalo Cemetery Association is authorized by this bill to acquire additional lands not exceeding fifty acres within the city of Buffalo, for cemetery purposes, and also to erect thereon a building for office purposes. Chapter 345 of the Laws of 1881 provides that "no lands lying within the present limits of the city of Buffalo within a radius of four miles of its city and county hall shall hereafter be taken or used for cemetery or burial purposes, except such as may be necessary for the use of some cemetery already in existence or are immediately adjacent to lands already actually in use as a burial ground." In view of the rapid growth and development of the city of Buffalo, this provision seems to be eminently wise and appropriate. The city is at present enjoying a degree of prosperity unprecedented in all of its past history, with every prospect of future continuance. It would be unfortunate, therefore, to permit the occupation of land for cemetery pur-

poses which is likely, within a few years, to be desirable and needed for residences, or business purposes. Like every growing city, Buffalo is now suffering embarrassment from the occupation of lands for burial grounds, hence care should be taken in the location of cemeteries hereafter, to place them safely beyond the limits of prospective improvement. It is, therefore, believed to be unwise to reverse the policy adopted in the enactment of last year, above referred to.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL No. 556, TO AMEND THE CHARTER OF THE CITY OF BROOKLYN, IN THE MATTER OF PARK COMMISSIONERS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 16, 1882, }

To the Assembly :

Assembly bill No. 556, entitled "An act to amend chapter 863 of the Laws of 1873, entitled 'An act to amend the charter of the city of Brooklyn and the various amendments thereof,' " is herewith returned without approval.

The Brooklyn park commissioners are, by the terms of this bill, to be continued in office for one year in addition to their term of service, which will expire on the 18th of this month ; but the bill makes no provision for the appointment of their successors. The existing law authorizes the mayor to appoint commissioners upon the expiration of the term of the present incumbents, and as the accompanying bill does not expressly abrogate this authority nor contain a repealing clause of any kind, it seems likely to lead to confusion. If the mayor should act upon the authority now vested in him and appoint new commissioners, the city would probably be the victim of a legal contest to determine which set of appointees were entitled to hold.

The mayor of Brooklyn was elected on the direct issue of making that officer responsible for the government of the city; and he is invested with the most extensive powers of any municipal executive in the State. Nothing has occurred since his accession to the mayoralty to impair the confidence reposed in him by the friends of good government, and it would seem especially ungracious to deprive him of authority by legislation at this early period of his administration. Opportunity should be given, without embarrassment, to test the exercise of unrestricted executive authority in regard to municipal appointments, now under trial in the city of Brooklyn. It will be time enough to reverse this policy when an abuse of power or culpable neglect of duty shall become apparent.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 549, TO INCORPORATE THE BUFFALO LIGHT BATTERY.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 17, 1882. }

To the Assembly :

Assembly bill No. 549, entitled "An act to incorporate the Buffalo Light Battery," is herewith returned without approval. This bill proposes to incorporate a military organization to be designated the Buffalo Light Battery, to be wholly independent of the National Guard, and of the State military regulations, except that in case of emergency it may be mustered into actual service for a period of not less than thirty nor more than ninety days, when it shall be under the direction of the Commander-in-chief. There is now a very efficient battery of the National Guard located at Buffalo, which is quite adequate for all ordinary purposes in that portion of the

State, and therefore there is no public necessity for such an organization as the one proposed.

The Military Code makes all necessary provision for the organization of the militia, and is in full accord with the act of Congress relative to the State militia. It may be fairly questioned whether the accompanying bill is not in conflict with the Constitution of this State, respecting local legislation, and also with the Constitution of the United States, which prohibits the several States from keeping troops in time of peace without the consent of Congress. Inasmuch, therefore, as the bill is not based upon any public necessity, and is not in accord with the general policy of the State relating to military affairs, it does not seem desirable that it should become a law.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 202, RELATING TO THE EUREKA
BASIN WAREHOUSE AND MANUFACTURING COMPANY OF
LONG ISLAND.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 23, 1882, }

To the Assembly :

Assembly bill No. 202, entitled "An act to repeal chapter 443 of the Laws of 1868, entitled 'An act to limit and define the powers and privileges of the Eureka Basin Warehouse and Manufacturing Company of Long Island,' and the several amendments thereof," is herewith returned without approval.

It is claimed on behalf of the Eureka Basin Company that it has proceeded in good faith under the laws which this bill proposes to repeal, and has thereunder invested a large sum and secured vested rights, which would be invaded or destroyed by the repeal, and further, that it has made important contracts and assumed obligations which would be interfered

with and impaired by such repeal. How far these representations may be valid it is perhaps unnecessary at this time to inquire, in view of the fact that by chapter 637 of the Laws of 1881, the company was expressly granted one year additional time within which to commence its improvements and expend a certain amount thereon. The time thus given will not expire until July 13, 1882, and there can hardly be any justification in repealing the several acts named until that period of time shall have elapsed. If, in the meantime, the requisite conditions of law have been duly complied with, the good faith of the State will be involved in maintaining the rights accorded by general or special acts. On the other hand, should the company fail to meet these legal obligations, the courts can take cognizance of its failure and apply the proper remedy, and a future Legislature may with greater propriety consider the question of repealing the acts.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 346, DEFINING THE LIABILITY
OF TOWNS FOR DAMAGE CAUSED BY DEFECTIVE HIGH-
WAYS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May* 23, 1882. }

To the Assembly:

Assembly bill No. 346, entitled "An act to amend chapter 700 of the Laws of 1881, entitled 'An act to provide for the liability of towns and commissioners of highways in certain cases,'" is herewith returned without approval.

The act which it is proposed by this bill to amend provides that towns shall be liable for damages to persons and property caused by defective highways or bridges, instead of the highway commissioners as formerly. The fourth section author-

izes town auditors to audit and pay, if deemed just, as a town charge, any judgment already recovered and not paid, as well also as judgments hereafter recovered. In consequence of a long standing controversy in one of the towns of Dutchess county over a claim for damages of this kind, a provision was inserted in the act that it should not apply to the county of Dutchess. The object of the accompanying bill is to repeal that section of the act which exempts Dutchess county from the operation of the law in question.

A memorial presented on behalf of the town of La Grange shows that a judgment was recovered against the highway commissioners of that town for the loss of a horse in 1876, which with costs and interest amounts at the present time to about forty-four hundred dollars. The claim was allowed by the town auditors in 1878, and was placed in the town tax levy of that year by the board of supervisors, but the Supreme Court, upon mandamus proceedings, ordered its cancellation, and the judgment still remains unsatisfied. It is therefore the obvious purpose of the proposed repeal to remove the obstacle which now prevents the collection of this claim from the town of La Grange. In view of the extraordinary amount of the claim for the loss of a single horse, and the further dispute as to whether the horse really died from injuries caused by a defective bridge, or from other causes, it seems hardly just that the town should be now rendered liable for the judgment, and especially without being permitted to contest the claim on its merits' in court.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL, No. 343, IN RELATION TO THE
LABOR OF CHILDREN IN REFORMATORY INSTITUTIONS,
UNDER CONTRACT.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May* 23, 1882. }

To the Assembly :

Assembly bill No. 343, entitled "An act relating to the employment of children by contract in houses of refuge, reformatories, correctional and other institutions," is herewith returned without approval.

The first section of this bill provides that "it shall be unlawful for the trustees or managers of any house of refuge, reformatory, correctional, or other institution, to contract, hire or let by the day, week or month, or any longer period, the services or labor of any child or children under sixteen years of age, now or hereafter committed to, or inmates of, such institutions. But this act shall not be construed so as to prevent the employment of such children upon work to be performed by the piece, under the sole direction of the trustees or managers or other proper officers of such institutions, nor shall it affect existing contracts."

The inmates of the houses of refuge at New York and Rochester are now employed on contracts during a limited number of hours each day, and are provided with instruction in the common branches of education during the balance of the day. The enactment of this bill would, therefore, revolutionize the system of labor in both of these institutions at the expiration of the existing contracts. It will hardly be questioned that some regular system of industry is in the highest degree desirable, not only to make the institutions as little burdensome to the public treasury as possible, but especially to accustom the children to industrious habits, and thereby qualify them for future self-support. This can only

be accomplished by employing them directly for public account or under contracts by the piece or by the day. Employment for public account has been found by experience in the prisons and reformatories to be unprofitable, and has, therefore, been discarded. Only last year this system was abolished at the Elmira Reformatory and the contract system substituted for it. Piece contracts are also objectionable, in that imperfect work would necessitate the rejection of products to greater or less extent, and thereby considerably reduce earnings. Contracting by the day is, therefore, the only system which affords either safe or satisfactory results. Careful inquiry as to the management of these two institutions has failed to reveal any substantial reason for the proposed change. Under the present system the contractors can only exercise supervision over the children employed through the medium of persons approved by the superintendent of the refuge. The discipline is wholly under the control of the managers and officers of the institutions, neither the contractors nor their representatives having authority to punish, assign tasks or prolong the hours of labor. It does not appear that the supervision on behalf of the contractors is in any degree detrimental to the reasonable discipline of the inmates or otherwise prejudicial to their welfare and moral improvement. Very gratifying evidences of educational progress is furnished in regard to both institutions. Of the children at the New York House of Refuge, about two-thirds are wholly illiterate when received, while at Rochester the proportion is only about one-third. All are subjected to thorough educational training during their stay, and their improvement in this respect is reported to be far greater than results from the same time spent in the public schools.

The inmates of the two institutions named now earn toward their own support between \$50,000 and \$60,000 annually. They are acquiring habits of industry and are learning trades

which will be useful in enabling them to maintain themselves when discharged. There can be no doubt that the proposed change would materially reduce the earning capacity of the institutions, and there is no apparent evidence that the children would be benefited thereby. Considered, therefore, in the light of public economy, the measure is objectionable, while no satisfactory reason is presented in its favor in other respects. The location of the New York Houses of Refuge in the immediate vicinity of active manufacturing cities, and the large number of inmates, makes the labor especially available for contracting, and hence the argument that other States have abandoned the system in similar institutions is not applicable with much force to the situation in this State.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL 453, FOR COMPENSATING STENOGRAPHERS IN THE COURT OF GENERAL SESSIONS, NEW YORK CITY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *May* 23, 1882. }

To the Assembly:

Assembly bill No. 453, entitled "An act to provide for the compensation of services in the general sessions of the peace in and for the city and county of New York by stenographers," is herewith returned without approval.

The apparent object of this bill is to considerably increase the amount of services required to be rendered by the stenographers employed in the court of general sessions of the city of New York, and to authorize a corresponding addition to their compensation. What public necessity there may be for increased service is not apparent, and it is surmised that the real object is to create additional duties in order to secure

the increased compensation therefor. Whatever the true merits of the proposition may be, the title of the bill is regarded as fatally defective in failing to express the real subject as to which it relates. The statutes now in force make abundant provision for every object embraced in the title of this bill, while the bill itself embraces provisions not expressed in the title. It is therefore believed to be in conflict with section sixteen of the third article of the Constitution.

ALONZO B. CORNELL.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, May 26, 1882. }

To the Legislature:

A proposition has been made by Mr. Frank B. Carpenter, the artist who painted the Lincoln portrait, to exchange for it one of normal size, which will be suitable for the Executive Chamber. Such an arrangement would be more satisfactory than to place the picture in the Senate Chamber. There is, however, no authority at present existing for such an exchange, and it is respectfully suggested that the Legislature, by concurrent resolution, confer upon some officer of the State the requisite authority to make the proposed exchange.

ALONZO B. CORNELL.

VETO, SENATE BILL No. 298, RELATING TO THE SUPERVISORS OF FULTON COUNTY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, May 29, 1882. }

To the Senate:

Senate bill No. 298, entitled "An act to amend chapter 77 of the Laws of 1873, entitled 'An act to equalize the represent-

ation in the board of supervisors of Fulton county,''' is herewith returned without approval.

Section eighteen of the third article of the Constitution provides that "the Legislature shall not pass a private or local bill * * * * providing for election of members of boards of supervisors." Although the accompanying bill is an amendment of an existing law, it is in positive conflict with the foregoing Constitutional restriction, and would therefore be inoperative if enacted.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 422, REVISING THE CHARTER
OF THE CITY OF AUBURN.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *May* 29, 1882. }

To the Assembly:

Assembly bill No. 422, entitled "An act to amend chapter 53 of the laws of 1879, entitled 'An act to revise the charter of the city of Auburn,''' is herewith returned without approval.

The common council of the city of Auburn, under the revised charter enacted in 1879, is authorized to raise annually, by taxation, twelve thousand dollars for the compensation of police. The accompanying bill authorizes the raising of seventeen thousand dollars for that purpose. It is difficult to understand what justification there can be for increasing the limit of the police fund in any city forty per cent. and more, within the short space of three years. This bill also increases the amount that may be raised for lighting streets and public buildings, from seventeen to twenty thousand dollars. Auburn now pays more for this purpose than any other city of like size in the State, and more than double the amount paid by several of equal population. There is no apparent reason why this service should be so much more expensive in Auburn, hence the proposed change is regarded as unnecessary and unwise.

ALONZO B. CORNELL.

VETO, SENATE BILL, INTRODUCTORY NO. 529, RELATING TO
STENOGRAPHERS OF THE SUPREME COURT.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 29, 1882. }*To the Senate :*

Senate bill, not printed, introductory No. 529, entitled "An act in relation to the appointment and removal of stenographers of the Supreme Court in the county of Kings, in the second judicial district," is herewith returned without approval.

Existing laws seem to make all reasonable provision for stenographic service in the Supreme Court in Kings county, and the propriety of making the large increase of expenditure authorized by the accompanying bill is not apparent. The proposition to provide a stenographer for a judge of the Court of Appeals at the expense of Kings county, is considered objectionable, in that it requires a single county to pay an expense which, if it be a proper public charge, the State should defray. Judges of the Court of Appeals are State officers, and whatever cost of assistance they need, must be provided out of the State treasury.

ALONZO B. CORNELL.

VETO, SENATE BILL NO. 151, RELATING TO ARREARAGES
OF TAXES AND ASSESSMENTS IN THE CITY OF BROOKLYN.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 30, 1882. }*To the Senate :*

Senate bill No. 151, entitled "An act to amend chapter 443 of the Laws of 1881, entitled 'An act to provide for the settlement and collection of arrearages of unpaid taxes and

assessments in the city of Brooklyn, and to insure a more efficient collection of taxes in future," is herewith returned without approval.

Under the pretence of amending the arrearage act of 1881 this bill seeks to revive the commission created by this act, whose functions have already ceased by limitation of time, as fixed therein, and to confer upon it authority unknown to that act, and which is believed to be unconstitutional. The bill proposes to vest the commission "with full power, in all cases where any tax, assessment or water rate levied or imposed on any land in said city prior to January 1, 1879, remains unpaid, and in arrears, and in the judgment of the board hereby constituted, is wholly or partly uncollectible, either by reason of the amount of such arrearages *or of any want of jurisdiction, irregularity or defect in any of the proceedings for levying, imposing or confirming any tax, assessment or water rate on such land*; to reduce the arrears of all taxes, assessments and water rates on such land, levied or imposed before the passage of this act, so as to realize as much as with authority of law would be actually and fairly collectible of such arrears from the property, and to fix, adjust, compromise and determine the same; the said board of commissioners to deal with said arrearages as matters of fact, according to their judgment of what shall be fair and just." * * * "Said board shall certify to the registrar of arrears and to the Comptroller the amount which it shall determine should be collected in each case *and such amount is hereby levied as a tax* and the same shall constitute a valid and binding tax on said lands irrespective of any question of irregularity, or law, jurisdictional or otherwise, attending said taxes or assessments *as originally levied or attempted to be levied*" * * *

This is an attempt to delegate to a board of individuals named by the Legislature, authority to determine the amount

of a tax, and to levy the same upon certain property where former levies have failed for *want of jurisdiction, or on account of irregularity or defect in any of the proceedings for levying, imposing or confirming* them. In other words, to levy taxes in lieu of those heretofore levied, and which for the reasons named proved to be void. If such taxes are to be levied and the power to fix and determine the amount thereof is to be delegated, it must be to the legally constituted authorities of the city of Brooklyn. The Legislature cannot delegate such a duty to individuals, or to a special commission unknown to the municipal organization.

Section twenty of the third article of the Constitution provides that "every bill which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object." The accompanying bill is therefore defective in failing to state the object for which the tax is imposed, and still further because it fails to indicate in its title that it authorizes the levying of a tax.

ALONZO B. CORNELL.

VETO, ASSEMBLY BILL NO. 115, FIXING THE COMPENSATION OF PRISON KEEPERS IN THE CITY OF NEW YORK.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *May* 31, 1882. }

To the Assembly :

Assembly bill No. 115, entitled "An act supplemental and relative to chapter 521 of the Laws of 1880, entitled 'An act to reorganize the local government of the city of New York and to reduce the burden of taxes to be levied in said city,'" is herewith returned without approval.

The department of public charities in the city of New York is required by the terms of this bill to fix the compensation of

keepers of the city prisons and penitentiary at the rate of eighty dollars per month, and "the said department must pay to the keepers of said city prisons and penitentiary the sum of eighty dollars per month during the year eighteen hundred and eighty-two and each and every succeeding year." This provision is clearly in conflict with the twenty-fourth section of the third article of the Constitution, which provides that "the Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor."

ALONZO B. CORNELL.

VETO. ASSEMBLY BILL NO. 350, EXTENDING THE TIME FOR
MARILLA M. SHARPE TO FILE HER CLAIM FOR DAMAGES
WITH THE CANAL APPRAISERS.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY. *June 1, 1882.* }

To the Assembly :

Assembly bill No. 350, entitled "An act to extend the time for Marilla M. Sharpe to file her claim for damages with the Canal Appraisers," is herewith returned without approval.

The fourteenth section of the seventh article of the Constitution provides that neither the Legislature, Canal Board, Canal Appraisers, nor any person or persons acting in behalf of the State, shall audit, allow or pay any claim which as between citizens of the State would be barred by lapse of time. The statutes provide that claims for personal injury or on account of death caused by negligence shall be made within two years after the happening of such injury or death. It is therefore not competent for the Legislature to authorize the Canal Appraisers to hear the claim described in the accompanying bill.

ALONZO B. CORNELL.

STATEMENT OF ITEMS OBJECTED TO IN ASSEMBLY BILL NO.
349 MAKING APPROPRIATIONS FOR CANALS. APPROVED.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, June 5, 1882. }

Statement of items objected to, and not approved, contained in Assembly bill No. 349, entitled "An act making an appropriation to pay the expenses of the collection of tolls, superintendence, ordinary repairs and maintenance of the canals for the fiscal year commencing on the first day of October, eighteen hundred and eighty-two, and to provide for a contingent deficiency in the revenues of the canals for the two fiscal years which end September thirtieth, eighteen hundred and eighty-two, and September thirtieth, eighteen hundred and eighty-three."

The following items contained in Assembly bill No. 349, entitled "An act making an appropriation to pay the expenses of the collection of tolls, superintendence, ordinary repairs and maintenance of the canals for the fiscal year commencing on the first day of October, eighteen hundred and eighty-two, and to provide for a contingent deficiency in the revenues of the canals for the two fiscal years which end September thirtieth, eighteen hundred and eighty-two, and September thirtieth, eighteen hundred and eighty-three," are objected to and not approved for reasons hereinafter stated :

That portion of the first paragraph of section one which reads as follows :

The salaries and traveling expenses of the Canal Appraisers, the clerk hire and incidental expenses of their office,

And also the fifth paragraph of section one, which reads as follows :

For the salaries and traveling expenses of the Canal Appraisers and for the clerk hire and incidental expenses of their office, twenty-five thousand dollars, or so much thereof as may be necessary.

These items are objected to and not approved for the reason that an appropriation for the maintenance of the Canal Appraisers' department for the ensuing fiscal year has already been made in the general appropriation bill, chapter 270 of the Laws of 1882.

ALONZO B. CORNELL.

ORDER REVOKING THE PROCLAMATION DECLARING THE TOWN
OF GREENWOOD, STEUBEN COUNTY, IN A STATE OF IN-
SURRECTION.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

Whereas, On the 11th day of February last a proclamation was made by me declaring, on the facts represented and appearing, the town of Greenwood, in the county of Steuben, to be in a state of insurrection, and commanding peace and submission to lawful authority in said town ;

And whereas, It is now made known to my satisfaction that the cause or exigency no longer exists for the intervention of the authority of the State, but that law and order do now prevail in said town ;

Now, therefore, It is hereby declared that the proclamation aforesaid is by these presents and from this time revoked, withdrawn and made of no further force or effect.

Given under my hand and the Privy Seal of the State, at
the Capitol, in the city of Albany, this thirteenth
[L. s.] day of June, in the year of our Lord one thou-
sand eight hundred and eighty-two.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

STATEMENT OF ITEMS OBJECTED TO IN ASSEMBLY BILL No.
512, APPROPRIATING MONEY FOR AWARDS MADE BY THE
CANAL APPRAISERS. APPROVED.

STATE OF NEW YORK :

EXECUTIVE CHAMBER,
ALBANY, June 16, 1882. }

Statement of items objected to and not approved, contained in Assembly bill No. 512, entitled "An act appropriating money to pay certain awards made by the Canal Appraisers, and interest thereon, and to pay counsel and witnesses employed and subpœnaed in behalf of the State."

The several items herein enumerated contained in Assembly bill No. 512, entitled "An act appropriating money to pay certain awards made by the Canal Appraisers, and interest thereon, and to pay counsel and witnesses employed and subpœnaed in behalf of the State," are objected to and not approved, for reasons hereinafter stated.

John F. and Grant Mersereau, by Samuel Probasco, their guardian, one hundred and twenty-five dollars.

Charles Rodman, forty dollars.

The items are objected to and not approved for the reason that there is not a sufficient amount appropriated to pay these awards in addition to the other items named. It appears that these items were inserted in the bill after the amount of the appropriation had been determined upon. While the items are just and proper, and should be paid, the fact that the appropriation is inadequate, makes it seem better to exclude them from this bill in order that they may be included in the next appropriation bill for such purposes.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL No. 492, AMENDING THE CHARTER OF THE VILLAGE OF WATERLOO. APPROVED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *June 19, 1882.* }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 492, entitled "An act to amend and consolidate the charter of the village of Waterloo." Duly approved.

This is an elaborate and carefully prepared revision of the charter of the village of Waterloo, and appears, in the main, to be a desirable measure; but it contains one provision clearly unconstitutional, with reference to the taking of private property for public uses. It provides in this respect that the village assessors shall appraise the value of property so to be taken. The Constitution declares that "when private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury or by not less than three commissioners appointed by a court of record, as shall be prescribed by law." The village assessors cannot therefore be vested with this authority, and this portion of the bill would be wholly void if it becomes a law.

Ordinarily this objection would be fatal to the bill; but it being manifestly desirable for the general interests of the village, that the other features of the bill should take effect, its approval in the present form seems justified, in the view, also, that amendment in respect to the above noted defect may hereafter be supplied.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL NO. 476, PROVIDING FOR A STATE ARMORY AT TROY. NOT APPROVED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, June 22, 1882, }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 476, entitled "An act to provide for the purchase of a site for and the erection of a State armory at the city of Troy, and making an appropriation therefor." Not approved.

While nominally appropriating seventy-five thousand dollars for the purchase of a site and the erection of an armory in the city of Troy for the use of the National Guard in that city, the bill, unfortunately, makes no provision for the payment of money, and no practical effect could, therefore, follow its approval. The commissioners designated to conduct the work would have no warrant to take definite action because of their inability to realize or command the funds intended to be placed at their disposal. This oversight in the wording of the bill renders it of no value beyond a declaration of the intent of the Legislature. Should a future Legislature fail to remedy the defect, it would be wholly inoperative and useless. It seems better, consequently, to allow the entire subject to go over, without further action, in order that it may be passed upon hereafter, without embarrassment or prejudice.

ALONZO B. CORNELL

MEMORANDUM FILED WITH SENATE BILL NO. 319, AMENDING THE CHARTER OF THE CITY OF TROY. NOT APPROVED.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, June 22, 1882. }

[Filed with the Secretary of State.]

Memorandum filed with Senate bill No. 319, entitled "An act to amend an act entitled 'An act to amend an act to incorporate the city of Troy, passed April twelfth, eighteen hundred and sixteen, and the several acts amendatory thereof, and also to amend other acts relating to the city of Troy,' passed May third, eighteen hundred and seventy, and also to amend other amendatory and supplementary acts relating to the city of Troy, or some of the departments of said city, passed since May third, eighteen hundred and seventy." Not approved.

Nearly every section of this bill provides for increasing the salaries of city officers. The sum proposed to be added to the present burden of the tax-payers of Troy can hardly be estimated at less than \$30,000 per annum. Not content with advancing salaries now or hereafter, the fifteenth section provides for increasing certain salaries, to take effect from May 28, 1881. This is clearly in fatal conflict with two separate sections of the Constitution. Besides augmenting city expenditures, the bill removes several prudent if not indispensable safeguards with respect to official accountability, and if sanctioned, would probably lead to unfortunate results. With such objectionable features the bill does not seem to contain redeeming qualities sufficient to offset or overcome them. Seldom, indeed, does a bill come before me with less of merit to commend it to approval.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL, NOT PRINTED,
RELATING TO THE TAXATION AND ASSESSMENT OF THE
PROPERTY OF CERTAIN CORPORATIONS IN THE CITY AND
COUNTY OF NEW YORK. NOT APPROVED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, June 22, 1882. }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill, not printed, entitled "An act relating to certain corporations, joint-stock companies and associations in the city and county of New York, and the assessment and taxation of property of the same for the purposes of the local government of said city." Not approved.

Objections to the enactment of this measure have been made by the mayor, comptroller and corporation counsel of the city of New York, which appear to be well founded and sustained. The courts are now dealing with the principal questions involved, and it is far better that a solution should be reached by judicial determination than by the arbitrary legislation proposed in the bill hereto annexed.

ALONZO B. CORNELL.

MEMORANDUM OF OBJECTIONS ACCOMPANYING THE SUPPLY
BILL.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, June 27, 1882. }

Statement of items of appropriation objected to and not approved, contained in Assembly bill No. 246, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations."

The several items herein enumerated, contained in Assembly bill No. 246, entitled "An act making appropriations for cer-

tain expenses of government, and supplying deficiencies in former appropriations," are objected to and not approved, for reasons hereinafter stated.

For Benjamin F. Brady, for preparing and engrossing memorials of the proceedings of the Senate and Assembly relative to the death of Hon. Webster Wagner, late Senator from the Eighteenth Senatorial district of this State, the sum of eight hundred dollars, payable on the certificate of the committees of the Legislature having charge of the preparation of the memorials, and on the audit of the Comptroller.

This item is objected to and not approved, for the reason that the sum named is regarded as excessive. While the object is considered a proper one, nothing appears to justify the payment of an unreasonable demand for the services performed.

Of the item "For the State Entomologist," that portion which reads as follows: "for the expenses of his office the sum of five hundred dollars, to be paid on vouchers to be approved by the Comptroller; and"

This item is objected to and not approved, for the reason that the law under which the State Entomologist was appointed does not contemplate an expenditure of this character, and nothing in the nature of the duties of the office warrant such an appropriation.

For the erection of an armory for the use of the Seventeenth separate company of infantry, at Flushing, Queens county, the sum of nine thousand dollars, to be expended under the direction of the Adjutant-General, the Inspector-General and the Chief of Ordnance, but no part thereof shall be expended until the title to the land upon which such armory is to be constructed shall have been vested in the State free from all incumbrances.

This item is objected to and not approved, for the reason that the State has no need of an armory at Flushing.

For W. L. M. Phelps, for services in the preparation of the annual report on railroads for the year eighteen hundred and eighty-one, three hundred and twenty-five dollars, payable on the certificate of the State Engineer and Surveyor, to be refunded to the treasury by the several railroad corporations of this State in proportion to their respective gross receipts, pursuant to chapter five hundred and twenty-six of the Laws of eighteen hundred and fifty-five.

This item is objected to and not approved, for the reason that section nineteen of article three of the Constitution provides that the Legislature shall neither audit nor allow any private claim or account against the State.

To Charles H. Peck, State Botanist, for expenses incurred by him in the discharge of his duties as Botanist in charge of the herbarium of the State Museum of Natural History, between January first, eighteen hundred and eighty, and January first, eighteen hundred and eighty-two, one hundred and fifty-four dollars and twenty-eight cents.

This item is objected to and not approved, for the reason that the Legislature is expressly prohibited from auditing or allowing any private claim or account against the State.

For the Comptroller, for payment of the expenses of the committees of the Senate and Assembly of eighteen hundred and eighty-two, appointed under resolutions of the two Houses to receive delegates from the Massachusetts Legislature, the sum of one thousand and sixty dollars and sixty-nine cents, or so much thereof as may be necessary.

This item is objected to and not approved, for the reason that the sum named is not only an extravagant, but an unwarranted provision for the object indicated.

For the Comptroller, for expenses of legislative committees and compensation of witnesses in addition to all sums heretofore or herein appropriated therefor, the sum of five thousand dollars.

This item is objected to and not approved, for the reason that other appropriations made in this bill are considered ample to provide for all proper expenditures of the character indicated for the current year.

For the services and expenses of the agent appointed to investigate the condition of asylums and other institutions of the State, and to ascertain their needs for appropriations, the sum of one thousand dollars.

This item is objected to and not approved, for the reason that it is without proper authority, and of no apparent benefit to the State. No such agent has been designated by the Comptroller and there is no law authorizing such an appointment by any other officer of the State.

For deficiency in appropriations for the compensation of stenographers appointed pursuant to chapter seven hundred and sixty-five of the Laws of eighteen hundred and sixty-eight, five hundred dollars, to be paid only from moneys which shall have been or shall be paid into the treasury for taxes levied for the purposes of said act, and in pursuance thereof.

This item is objected to and not approved, for the reason that so much of chapter 765 of the Laws of 1868 as authorized the employment of stenographers, was repealed by chapter 417 of the Laws of 1877, and the necessity of providing for any

deficiency under the operations of that law, at this late day, is not apparent.

For the justices of the Supreme Court in the second judicial district, not residing in the county of Kings, for additional compensation for services as such justices, from October first, eighteen hundred and seventy-two, to October first, eighteen hundred and seventy-seven, twelve thousand five hundred dollars, and for such services from October first, eighteen hundred and seventy-six, to October first, eighteen hundred and seventy-seven, two thousand five hundred dollars, pursuant to chapter seven hundred and sixty-five of the Laws of eighteen hundred and sixty-eight, to be paid only from moneys which shall have been or shall be paid into the treasury for taxes levied for the purposes of said act, and in pursuance thereof.

This item is objected to and not approved, for the reason that it is apparently intended to renew by appropriation certain claims of justices of the Supreme Court in the second judicial district for increased compensation which were refused by the Comptroller, during the period mentioned. Whatever merit the claims may possess, this is not the proper way to establish them.

For the stenographer, acting also as clerk of the Senate special railroad investigating committee, five hundred dollars, or so much thereof as may be necessary, payable on the certificate of the chairman of such committee.

This item is objected to and not approved, for the reason that existing laws provide for the due compensation of legislative employees, and ample appropriations have heretofore been made for such purposes.

For the county of Cayuga, as an equitable reimbursement for certain expenses incurred and paid for the two trials in eighteen hundred and seventy-three and eighteen hundred and seventy-four, and the appeals thereon, of Michael Donohue, a convict, indicted for the murder of a convict in Auburn prison, including all disbursements made necessary during the incarceration of said Donohue prior to, pending and subsequent to the trials ; for like expenses incurred and paid for the trials in eighteen hundred and seventy-four, of John Coughlin, Patrick Egan, Thomas E. Hardy and Patrick Clifford, convicts, indicted for assaults with deadly weapons upon a keeper in said prison, including like disbursements ; for like expenses incurred and paid for the trial in eighteen hundred and seventy-five, of Edwin Thomas, a convict, indicted for the murder of a convict in said prison, including like disbursements ; for like expenses incurred and paid for the trial, in eighteen hundred and seventy-seven, of Harvey Thorpe, a convict, indicted for the murder of a convict in said prison, including like disbursements ; and for like expenses incurred and paid for the trial in eighteen hundred and seventy-seven, of William Barr, a convict, indicted for the murder of a keeper in said prison, including like disbursements, the sum of eight thousand and nine dollars.

This item is objected to and not approved, for the reason that the claims thus provided for are mostly barred by lapse of time under section fourteen, article seven of the Constitution. The trials of Donohue, Coughlin, Egan, Hardy and Clifford occurred in 1873 and 1874, and that of Thomas in 1875. Only those of Thorpe and Barr have occurred within the time in which claims can be considered under the Constitution. If any allowance could properly be made on account of these expenditures, the claims should first be passed upon by the Board of Audit. The Legislature cannot evade the Constitutional prohibition with reference to the settlement of claims, by declaring the appropriation to be an "equitable reimbursement," as proposed in this item.

For the county of Clinton, to refund to it the expenses incurred and paid for the trial, in eighteen hundred and eighty-one, of Henry King, a convict, indicted for the murder of Michael Hamilton, in Dannemora prison, including all disbursements made necessary during the incarceration of said King prior to, pending and subsequent to the trial, the sum of eight hundred and forty-seven dollars and twenty-four cents.

This item is objected to and not approved, for the reason that the Legislature is expressly prohibited by the Constitution from auditing or allowing claims or accounts against the State. The claim should be presented to the Board of Audit, for its adjudication, when, if allowed, it will be competent for the Legislature to make an appropriation for its payment.

For the services of a messenger for the committee on finance of the Senate for the session of eighteen hundred and eighty-two, the sum of one hundred and fifty dollars, payable on the certificate of the chairman of the committee.

This item is objected to and not approved, for the reason that no such employee is provided for by the statute prescribing the officers and employees that may be elected, appointed or employed by the Senate and Assembly; and that act expressly declares that no additional employees of this character shall be elected or appointed.

For the clerk of the committee appointed by the Senate of eighteen hundred and eighty-one, to investigate the affairs of the health officer's department of the port of New York, the sum of five hundred dollars, payable on the certificate of the chairman of such committee.

This item is objected to and not approved, for the same reason as stated for the disapproval of the last mentioned item.

For the services of a special clerk of the committee on insurance of the Senate, in the investigation of insolvent insurance companies, five hundred dollars, and for the services of a special clerk of the committee on insurance of the Assembly, in the investigation of insolvent insurance companies, three hundred dollars, to be paid on the certificates of the respective chairmen of such committees.

Both of the items in this paragraph are objected to and not approved, for the same reasons stated for the disapproval of the last two mentioned items.

For the commissioners of the land office, to pay the expense of locating, monumenting and mapping the line between the counties of Lewis and Herkimer, three thousand dollars.

This item is objected to and not approved, for the reason that very liberal appropriations have already been made for the current year for work of this character, and unless the special object designated in this item can be carried on in connection with one or the other of the surveys now in progress, it may well be delayed until after the expenditures incident to those enterprises shall have ceased.

Of the appropriations for the New York State Reformatory at Elmira, the several items which read as follows : " For building a boiler-house and removing boilers from central building, eighteen thousand dollars ; for fitting up hospital in northwest pavilion, five thousand dollars ; for erecting pump-house and purchase of pumps and piping for water supply for domestic purposes, four thousand dollars ; and for construction of reservoirs for water supply as protection against fire, and purchase of steam fire engine, six thousand dollars."

These several items are objected to and not approved, for the reason that in view of the enormous expenditures which have heretofore been made for the construction and maintenance of this institution, the State treasury should be exempted from further drafts on account of improvements therein, until other public works now in progress shall have been completed and the burdens of the taxpayers on such account shall have been materially diminished.

For the asylum for insane criminals at Auburn, for renewing and repairing heating apparatus, providing for fire protection, and enlarging and furnishing chapel, eight thousand dollars.

This item is objected to and not approved, for the reason that adequate appropriations have already been made for the ordinary repairs of this asylum, and the necessity of the expenditure of this large sum for extraordinary purposes is not regarded as sufficient to warrant such appropriation at this time.

For securing additional religious instruction to convicts in the several State prisons, fifteen hundred dollars, to be expended under the direction of the Superintendent of State Prisons.

This item is objected to and not approved, for the reason that due provision has already been made in the regular appropriation for the maintenance of the State prisons, for the purpose indicated.

For the Superintendent of State Prisons, for the payment of the final estimate for building a new dock at Sing Sing prison, pursuant to chapter two hundred and fifty-two of the Laws of eighteen hundred and seventy-eight, and chapter two hundred and seventy-two of the Laws of eighteen hundred and seventy-nine, the sum of five thousand seven hundred and ninety-two dollars and sixty-two cents, payable on the certificate of the State Engineer and Surveyor.

This item is objected to and not approved, for the reason that the claim should be passed upon by the Board of Audit in order to determine the amount of the liability of the State. It is not competent for the Legislature to fix the amount to be allowed on a claim of this character.

That item in the paragraph making appropriations for the Binghamton Asylum for the Chronic Insane, which reads as follows : "The sum of twenty thousand dollars."

This item is objected to and not approved, for the reason that it is considered an unreasonable amount to be appropriated to this institution, for the current year, in addition to the sum appropriated by the remaining portion of this paragraph.

Items in the paragraph making appropriation for the Hudson River State Hospital, which read as follows : "For construction of roadway under the Hudson River railroad, two thousand dollars." * * * "For coal sheds, one thousand dollars." * * * "For refunding to maintenance account for amounts drawn from it and expended in renewals, repairs and betterments, twelve thousand dollars." * * * "Hereafter no money shall be drawn and expended from the maintenance fund of any asylum except for the support of patients."

These several items are objected to and not approved, for the reason that the balance of the appropriation made for this institution is regarded as extremely liberal for the present year. There is no good reason why ordinary repairs and all incidental expenses of asylums should not be paid out of the maintenance fund.

Items in the paragraph making appropriations for the Buffalo Asylum for the Insane, which read as follows: "For stock on farm, cows, pair working horses, harness, wagon and sleigh, and fitting up milk-room, one thousand five hundred dollars; for painting and finishing walls and floors of administration building, seven hundred and fifty dollars; for cistern for storage of water to guard against failure in supply, five hundred dollars; for fitting up office and store-room with shelving and other fixtures, two hundred and fifty dollars; for erecting fence about exercise grounds and putting grounds in condition for use of patients, one thousand dollars; for storm windows on administration building and dining-rooms of wards, three hundred dollars; for drain about the foundation of walls, five hundred dollars; for completing and furnishing of chapel, one thousand dollars."

These several items are objected to and not approved, for the reason that they are mostly for purposes which are proper to be provided for out of the maintenance fund, and should not be made the object of special appropriation.

Items in the paragraph making appropriations for the Homœopathic Asylum at Middletown, which read as follows: "For tile floor throughout basement of main building, fifteen hundred dollars;" * * * "for renovating heating apparatus in main building, six thousand dollars; for repair of water-closets, one thousand dollars; for new pipe and for water supply, four thousand dollars; for addition to ice-house, five hundred dollars; for medical library and surgical appliances, five hundred dollars;" * * * "and for fitting up gymnasium and workshop for patients, one thousand dollars."

These several items are objected to and not approved, for the reason that the purposes indicated are mostly of a character to be classed as ordinary repairs and incidental expenses, which should be paid out of the maintenance fund, and should not be provided for by special appropriation.

For the New York State Lunatic Asylum, for renewal and repairs of wards ten and twelve of the women's department, and wards five and nine of the men's department, twelve thousand nine hundred and seventy-six dollars and thirty-eight cents; and for three thousand three hundred and fifty feet of hose, sixty-seven brass couplings, twenty-four plug pipes, six steel pick-axes and six holders for same, six fire-hooks, twenty-four hose spanners, and thirty-six rubber buckets, two thousand and fifty-two dollars, to be expended under the direction of the trustees of the asylum, subject to the audit of the Comptroller.

Both of the items embraced in the foregoing paragraph are objected to and not approved, for the reason that the purposes indicated are in the nature of repairs and incidental expenses proper to be provided for out of the maintenance fund, and should not be the object of special appropriation.

For boring an experimental well to test the question of the existence of salt in place on or near the Onondaga Salt Springs reservation, to be expended under the direction of the Superintendent of the Onondaga Salt Springs, the sum of ten thousand dollars. This appropriation shall be paid from the general fund out of any money arising from the duties on salt not otherwise appropriated.

This item is objected to and not approved, for the reason that it is not regarded as a judicious expenditure to be authorized at the present time.

For the payment of an award made by the State Board of Audit in favor of Charles A. Danolds, April fifteenth, eighteen hundred and seventy-nine, for claim arising under contract for work on the Elmira Reformatory, which award has been affirmed by the Supreme Court and the Court of Appeals on appeals thereto by the Attorney-General on the part of the State, the sum of sixty-five thousand dollars, and for interest thereon the sum of twelve thousand three hundred and fifty dollars.

These several items are objected to and not approved, for the reason that the Attorney-General is of opinion that upon a new trial of this case the claim might be reduced in whole or in part by testimony which was not available upon the former trial. The Attorney-General recommended the enactment of authority by which he could move for a new trial in this case, and also in the Worthington case; but owing to the late date this suggestion was made, legislative action failed. In view of these facts, therefore, it seems proper that the appropriation should be postponed until another Legislature be enabled to deal further with the case as the interests of the State may seem to warrant.

For the payment of an award made by the State Board of Audit in favor of George Worthington, April fifteenth, eighteen hundred and seventy-nine, for balance due on contract for iron work on Elmira Reformatory, which award has been affirmed by the Supreme Court on appeal thereto by the Attorney-General on the part of the State, and from which decision of affirmance the Attorney-General declines to appeal to the Court of Appeals, the sum of twenty-five thousand dollars, and for interest thereon the sum of four thousand six hundred and eighty-seven dollars and fifty cents.

These several items are objected to and not approved, for the same reason as stated for the disapproval of the last preceding item making appropriation for the Danold's claim.

For the payment of the award of the State Board of Audit to Timothy J. Sullivan, for the balance due him on contract for materials furnished and labor performed for the New Capitol, as awarded March twelfth, eighteen hundred and eighty, the sum of eight thousand three hundred and forty-six dollars and eighteen cents, and for interest thereon the sum of one thousand and one dollars and fifty-four cents.

This item is objected to and not approved, for the reason that the party named has no valid claim against the State, and that the action of the Board of Audit was taken without having before it the fact that the claim had previously been audited and settled by the New Capitol Commissioners; and also that the claimant accepted such settlement and receipted for the amount allowed, thereby releasing the State from liability under his contract.

This claimant contracted in 1874 to furnish for the New Capitol building rolled iron beams and girders of certain specified dimensions. He found that ordinary commercial iron would not conform to the exact size which he had contracted to deliver, and he applied to the architect to permit him to make the necessary variation to avoid literal compliance with his obligation. The architect refused to accept the iron of less thickness than the contract called for, and hence the contractor found himself obliged to choose between furnishing the iron of the specified dimensions, or such as he could purchase in the open market, slightly thicker than was required. And accepting the latter course as more favorable to himself he decided to act accordingly. In November, 1875, after the contract was completed, the account was audited by the New Capitol authorities at \$59,961.82 less \$53,000 previously paid in the progress of the work. For the balance, \$6,961.82, the New Capitol Commissioners issued their certificate, and the Comptroller's warrant dated November 23, 1875, was accompanied by the following affidavit and receipt, now on file in the Comptroller's office:

"STATE OF NEW YORK, {
Albany City and County, { ss.:

T. J. Sullivan, of Albany, New York, being duly sworn, deposes and says, that the account rendered and the articles specified in the annexed bill, iron beams and girders furnished in accordance with contract, \$59,961.82, were actually furnished as charged to the 'New Capitol Commission,' for the use of the State; that the amounts stated therein are the true and correct amounts due for the said articles and that the prices charged for the said articles as stated in said account are the fair cash market prices for the same, as this deponent believes, and that the quantities and amounts are correctly stated in said account.

(Signed) T. J. SULLIVAN.

Subscribed and sworn to this 23d day {
of November, 1875, before me. }

(Signed) HENRY GALLIEN,
Notary Public, Albany, N. Y."

The following receipt is also attached to the warrant :

"TREASURER'S OFFICE, {
State of New York. {

Received from Thomas Raines, Treasurer of this State, sixty-nine hundred and sixty-one dollars and eighty-two cents in full of the above warrant.

ALBANY, *November 23, 1875.*

(Signed) T. J. SULLIVAN."

Among other stipulations contained in the contract was the following :

"It is further agreed between the said parties that this contract is entered into upon the condition that the said party of the second part shall not apply to the Legislature for any compensation over and above the prices named in this contract for any beams, girders, or other material delivered."

It therefore appears that the account was audited and settled by the New Capitol Commissioners in full conformity with law, and liquidated by the Comptroller upon an unqualified voucher from the claimant, who also swore that "the account rendered and articles specified in the annexed bill, iron beams

and girders furnished in accordance with contract, \$59,961.82, were actually furnished as charged to the New Capital Commission for the use of the State; that the amounts stated therein are the true and correct amounts due for the said articles, and that the prices charged for the said articles as stated in said account are the fair cash market price for the same." The evidence before the Board of Audit failed to disclose these detailed circumstances. It is safe to assume that with a full and fair presentation of the case the Board of Audit would never have made this award.

Added to the other objections to this item, it is in fatal conflict with the Constitutional restriction, which prohibits the Legislature from granting any extra compensation to any public officer, servant, agent or contractor. This claim having been duly audited and settled, any further allowance must be regarded as extra compensation.

Items in the paragraph making appropriations for the commissioners of quarantine, which read as follows: "For repairs of dock, and for dredging at upper boarding station, one thousand dollars; for cutting and grading road-way at upper boarding station, in fulfillment of contract made by the State on the purchase of the property in eighteen hundred and seventy-three, one thousand one hundred dollars; for repairs of the hospital ship Illinois, five hundred dollars; for repairs of the steamboat N. K. Hopkins, five hundred dollars."

These several items are objected to and not approved, for the reason that the objects indicated are proper to be paid for out of the general appropriation for the "care, maintenance and repair of the quarantine establishment," and therefore special appropriation is not necessary to provide for them.

For the commissioners of quarantine to pay for work, labor and services rendered, and materials supplied by Henry P. Kirkham, in the repair of the hospital ship "Illinois" and the steamer "N. K. Hopkins," in eighteen hundred and seventy-nine, fifteen hundred and twenty dollars and forty-one cents.

This item is objected to and not approved, for the reason that the claim should be passed upon by the Board of Audit. The Legislature is expressly prohibited from auditing or allowing a claim of this character.

For the State Normal and Training School at Oswego, for the instruction of teachers in a kindergarten department in connection with said school, to be ex-

pended upon the approval of the Superintendent of Public Instruction, two thousand dollars.

This item is objected to and not approved, for the reason that abundant provision has already been made for instruction of teachers in the normal schools.

To reimburse the several counties of this State, for the care and maintenance of State prisoners in the several penitentiaries of this State, and to pay the several counties for cost of maintaining criminals under chapter one hundred and seventy-six of the Laws of eighteen hundred and eighty, the sum of thirty thousand dollars.

This item is objected to and not approved, for the reason that the ordinary appropriation for the purpose indicated is deemed ample to discharge all just obligations of the State to the several counties for the care and maintenance of State prisoners. While the penitentiaries are offering to keep United States prisoners without cost, besides paying for their transportation, there is no good reason why the State should be expected to pay an extraordinary rate for its prisoners, especially when they can be provided for in the State prisons without such expense.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL NO. 589, RELATING TO STREET RAILROADS. NOT APPROVED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, June 28, 1882. }

[Filed with Secretary of State.]

Memorandum filed with Assembly bill No. 589, entitled "An act to provide for the construction, maintenance and operation of street railroads in cities, towns and villages."

Whatever merit of a general character this bill possesses, it seems to be outweighed by objections made by the mayor and comptroller, as well as by citizens of the city of New York, who claim that the public interests of that city are not suffi-

ciently protected from abuse. The third section of the bill provides that the local authorities of the city of New York shall not consent to the construction of any surface railways in said city without securing payment into the city treasury of such consideration as said authorities shall determine ; nor shall they consent to the location of a surface railway in Broadway from the Battery to Fourteenth street, without first securing payment to the city treasury of a bonus of at least \$750,000, and such additional consideration as said authorities may see fit to prescribe.

During the last thirty years immense private fortunes have been accumulated from street railway franchises in the city of New York, which, owing to inconsiderate legislation, have been granted without adequate compensation to the city. Had there been incorporated into the laws authorizing these grants, suitable provisions for securing to the city a portion at least of their ultimate value, New York would now realize a revenue from such source that would largely diminish the burden of taxation imposed to defray the expenses of its government. The future growth of the metropolis will make many franchises hereafter granted, very valuable, and hence, profiting by unmistakable errors in past legislation, subsequent laws should securely provide for the payment into the city treasury, of a reasonable percentage on gross receipts ; or, instead thereof, should provide for reduced charges or fare, in order that the people shall obtain direct benefit from the appreciated value of the respective franchises.

Two distinct objections may be stated to the provision of this bill authorizing the local authorities that grant the use of streets, to fix the rate of compensation for the same. 1. The money value of these railroad franchises cannot well be estimated in advance. It remains an unknown quantity until determined by a practical method of fixing a percentage on the earnings or gross receipts. This principle should be established

by law, and not left to the option of the common council.

2. Experience has demonstrated in repeated instances, that the common council of a great city is not the safe custodian of such interests and authority as proposed in this bill. It has happened often, that selfish considerations have intervened and controlled the action of such body, to the manifest detriment of the public welfare. The fact that this is a general measure, which, if enacted, would become the fixed law relative to street railway franchises, the conferring on the common council of New York city authority to determine the rate of compensation in such cases, renders it a matter of more than ordinary concern.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL No. 215, TO
ESTABLISH A CIVIL CODE. NOT APPROVED.

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *July 1, 1882.* }

[Filed with Secretary of State.]

Memorandum filed with Assembly bill No. 215, entitled "An act to establish a Civil Code."

This bill makes many manifestly radical changes in long and well established laws and usages beyond what could have been contemplated in the Constitution with reference to codification. Ideas and principles are attempted to be introduced, which as separate propositions, in independent bills, would hardly command support. To act hastily, or unadvisedly, in accepting such a measure, and giving it the force of law, would be unwise and dangerous. The appropriate time to consider its provisions, some of which are very generally criticised and condemned, is before it becomes a complete enactment. It is almost an accepted fact that this code, if

approved, would require amendment in many important particulars. In this view and for such purpose one branch of the Legislature, after the passage of the bill, provided for a commission to examine it during the adjournment, and report proper and necessary amendments at the next session. This is an implied admission, at least, that in its present shape the code is imperfect, and susceptible of such change and improvement as to command consideration of a special committee; and for the purpose and to the end that defects be eliminated, the time of its taking effect was postponed until May 1, 1884. To pass laws with conceded faults, and defer their operation until some other Legislature shall have corrected them, is unsafe and unadvisable, especially in so important a case as that of a code affecting almost every relation of life. Too much reliance has been placed on future Legislatures to correct mistakes and supply needed amendments. The responsibility should not thus be transferred, with no kind of authority to compel it. To avoid possible wrong, or the omission of the succeeding two Legislatures, it seems preferable to remit the bill in its entirety for legislative action, rather than give it now the form and force of an enactment.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH SENATE BILL NO. 282, APPROPRIATING MONEY FOR THE ERECTION OF AN ARMORY IN KINGS COUNTY. NOT APPROVED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *July 1, 1882.* }

[Filed with Secretary of State.]

Memorandum filed with Senate bill No. 282, entitled "An act reappropriating money for the erection of an armory in the county of Kings."

While nominally appropriating one hundred thousand dol-

lars for the erection of an armory for the National Guard in the city of Brooklyn, this bill fails to make any provision for the payment of the money out of the treasury. Hence, the only effect of its approval would be to set aside, in the State treasury, this amount of money for the purpose indicated to await the action of a future Legislature. Nothing could be done by the commissioners charged with the duty of erecting the building until further legislation be secured; and inasmuch, therefore, as the enactment of this bill would accomplish no substantial progress toward the object sought, it is quite useless to approve it.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL NO. 397 — THE
MILITARY CODE. NOT APPROVED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, July 1, 1882. }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 397, entitled "An act to provide for the enrollment of the militia, for the organization and government of the National Guard of the State of New York, and for the public defense, and entitled the Military Code."

Desirable as a new Military Code may be, this bill contains some features which forbid its approval. From beginning to end it involves an increased expenditure for military purposes. The very lowest estimate made of the increased cost of the military establishment under this code, as compared with the present law, and on a calculation for the smallest minimum of force, and without estimating for any actual service whatever, may be stated at \$95,000 per annum; and this is probably \$20,000 or \$30,000 lower than experience would demon-

strate. Should the necessity for considerable service arise by reason of any disturbed condition of the public peace, the increased expense consequent upon the enactment of this code, would be very much larger than the amount stated. It is difficult to realize what advantages could follow the enactment of this measure to justify such enlarged expenditures.

Changes in the mode of military appointments provided in the bill require that it should have been passed by a two-thirds vote in order to conform to the constitutional provision in this regard; whereas, it is certified by the officers of the two houses as having been passed by a three-fifths vote. It may be fairly held, therefore, that the law, if enacted, would be challenged and set aside by reason of the insufficient certification of its adoption. Another very serious defect is found in the omission of any provision for the auditing of accounts and claims against the State for military purposes. This of itself is a very substantial if not wholly fatal objection to the bill. There are also other features which are subject to serious criticism, but it is hardly necessary to enter into further detail on the bill at this time.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL No. 548, PROVIDING FOR THE TRANSFER TO THE STATE TREASURER OF RECEIVERS' TRUSTS. NOT APPROVED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, July 1, 1882. }

[Filed with Secretary of State.]

Memorandum filed with Assembly bill No. 548, entitled "An act to provide for the more speedy and economical settlement of the affairs of savings banks, trust companies, loan and trust companies and insurance companies organized or incorporated under the laws of this State, which are or may become insolvent." Not approved.

Fully realizing the force of public sentiment demanding the abolition of abuses heretofore frequently occurring in the

winding up of insolvent corporations, it has been my earnest desire to approve this measure. Careful consideration of the various provisions of the bill, however, impels me irresistibly, but reluctantly, to the conclusion that it cannot safely be allowed to become a law. In two essential particulars there is serious question whether it is not in direct antagonism with the Constitution. Should the affirmative view be confirmed by judicial decision the act would be worse than useless, and inevitably result in serious complications and much expensive litigation.

The first section provides that "all property and estate, real and personal, moneys, credits, claims and effects of every name and nature now vested in any receiver of any insolvent savings bank, trust company or insurance company shall on motion of the Attorney-General be transferred to and vested in the Treasurer of this State, who on such motion shall be made receiver of the same, and shall forthwith take possession thereof." Section two directs that "the treasurer as receiver of any such insolvent corporation, shall forthwith proceed with diligence to collect and reduce to money all its estate and assets and distribute the same among the parties entitled thereto according to law, and within one year after he shall become receiver the affairs of such insolvent corporation shall be settled. For sufficient cause shown, the courts, upon application of said Treasurer, may extend the time for that purpose, not to exceed six months." The Constitution vests the Supreme Court "with general jurisdiction in law and equity subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law." While it is not here questioned that laws may be enacted to regulate the appointment of receivers thereafter, it is by no means clear that the Legislature can arbitrarily remove an officer of the Supreme Court in actual possession of an insolvent estate of which the court has already acquired jurisdiction in pursu-

ance of the Constitution and statutes, and designate another officer to receive and administer the trust without reference to the judgment or discretion of the court. The proposition that the assets now vested in receivers *shall*, on motion of the Attorney-General, be transferred to and vested in the Treasurer, can only be regarded as a legislative direction that the Supreme Court shall make a certain order as to property actually in its custody and under its control, for the purpose of final adjudication. This is a manifest interference with the jurisdiction of the court in a matter actually in litigation relating to property held by the court to await its decision.

The ninth section provides that the "Treasurer as such receiver shall forthwith deposit all moneys that shall come into his hands from the assets of insolvent corporations in such banks in Albany as may be designated to receive on deposit the moneys of the State to the credit of the Treasurer as receiver of the corporation to which it shall belong, and such moneys shall be disbursed by checks made by the Treasurer as receiver, countersigned by the Attorney-General." The Constitution says "no moneys shall ever be paid out of the Treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law, * * * and every such appropriation shall distinctly specify the sum appropriated, and the object to which it is to be applied." Will not the moneys to come into the hands of the Treasurer as receiver constitute various "funds under the management of the State?" If so, they must remain in his custody until by law the funds are duly appropriated. Such delay would cause undue hardship to creditors who should be paid as promptly as possible. The Treasurer is not to be receiver as an individual, but receiver, *ex-officio*. If the office of Treasurer become vacant, the receivership will also be vacant; and the succeeding Treasurer will become receiver by virtue of his office. How, then, is the

receiver to be separated from the Treasurer? And how are the funds in his hands to be kept out of the Treasury? What is the Treasury of the State mentioned in the Constitution? It is not the particular place for the keeping of money like the United States Treasury. It is simply the designation or name for the moneys in the custody of the Treasurer; but actually deposited in certain designated banks to his credit, precisely as this bill requires the deposit of moneys to the credit of the Treasurer as receiver. How, then, will these funds differ from other funds under the management of the State in its Treasury? Section eleven directs that any dividend due a creditor, which shall not be called for within one year, "shall be covered into the sinking fund of the State for the benefit of the owner thereof." This language indicates that the money is already in the Treasury so as to be covered into the sinking fund; otherwise, it would need to be paid into the Treasury to the credit of the sinking fund.

Aside from the foregoing questions there are other features of the bill, the propriety and application of which may be seriously doubted. Thus: 1. Depriving the courts of all discretion as to the amount of security to be given by the Treasurer as receiver. Before entering upon his duties he is to execute a bond for \$25,000, but it is not quite certain whether this means one general bond or a separate bond in each case. 2. The limited time in which each estate is required to be closed up. In the case of serious litigation it might be impossible to properly administer upon an important corporation within eighteen months; still the terms of the bill imperatively require every case to be closed in that time. 3. Prohibiting an appeal from the order of the court on the report of a referee fixing the compensation of counsel. This would make possible the repetition of extravagant allowances aimed to be prevented, and which have heretofore brought scandal on the law and the courts. 4. Removing the business

of a local corporation to Albany may often lead to serious inconvenience and disadvantage in the conduct of its affairs.

5. Allowing the Treasurer and the Attorney-General to determine the amount of compensation to be paid to their assistants out of the assets of insolvent corporations without confirmation by the court, affords unusual latitude. 6. Prohibiting the court to permit the intervention of an interested party except on the certificate of the Bank Department or Insurance Superintendent, is calculated to work harm. The discretion of the court should never be abridged to such extent. 7. Covering unclaimed dividends into the sinking fund at the expiration of one year would also be likely to cause unreasonable trouble to parties entitled to their money on demand. 8. Making the assignment of a claim against an insolvent savings bank or insurance company invalid after the date such corporation shall be adjudged insolvent would frequently cause inconvenience, and sometimes, actual suffering. Besides, to deprive a person of the right to assign a claim comes little short, if it does not in effect deprive one of property without due process of law.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL No. 794, PROVIDING FOR THE HEARING OF CLAIMS BY THE COUNTY OF CAYUGA.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, July 1, 1882. }

[Filed with Secretary of State.]

Memorandum filed with Assembly bill No. 794, entitled "An act to authorize and empower the State Board of Audit to hear, audit and determine the claim of Cayuga county for moneys expended in the trial of convicts for crimes committed during their imprisonment in Auburn State Prison, and to make an award therefor." Not approved.

This bill is designed to authorize the Board of Audit to hear, audit and determine the claim of Cayuga county for

moneys expended for the criminal prosecution and conviction of eight prisoners in the Auburn State Prison, charged with crimes committed therein, during several years from 1873 to 1877, and to adjust and award the amount thereof. Six of these prosecutions occurred during the years 1873, '4, and '5, and are therefore clearly barred by lapse of time pursuant to the provisions of the fourteenth section of article seven of the Constitution. It is, therefore, incompetent for the Legislature to authorize the Board of audit to audit and allow claims thus barred.

ALONZO B. CORNELL.

MEMORANDUM FILED WITH ASSEMBLY BILL NO. 500, CONSOLIDATING THE LOCAL LAWS RELATING TO THE CITY OF NEW YORK.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *July 1, 1882.* }

[Filed with Secretary of State.]

Memorandum filed with Assembly bill No. 500, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York." Duly approved.

The bill to consolidate and declare the local laws relating to New York city, consisting of seven hundred and fourteen printed pages, reached the Executive Chamber the day following the adjournment of the Legislature. It would, of course, be impossible to make an exhaustive examination of a bill of such magnitude in the brief time allowed by the Constitution, crowded as it has been with the labor of examining more than two hundred other bills. Such attention as it has been possible to devote to this measure makes it appear to be a faithful and careful codification of existing laws. This view is con-

firmed by the statements of the comptroller and corporation counsel of the city of New York, and also by the committee designated by the Bar Association to examine the bill and report thereon. The measure was prepared and presented for the consideration of the Legislature, pursuant to chapter 594 of the Laws of 1880, and chapter 572 of the Laws of 1881. As it does not take effect until March 1, 1883, the next Legislature will be enabled to correct any errors which may meantime be discovered.

ALONZO B. CORNELL.

STATEMENT REFERRED TO ABOVE.

LAW DEPARTMENT,

OFFICE OF THE COUNSEL TO THE CORPORATION, }
NEW YORK, June 9th, 1882 }

His Excellency, ALONZO B. CORNELL:

MY DEAR SIR: An absence from the city for some days has delayed a reply to your note asking my opinion with regard to the codification of the laws relating to the city of New York, which passed the Legislature at its recent session.

It is of course a very difficult work to get done without some errors occurring, but I know that it is the result of most conscientious labor on the part of Messrs. Bliss and Olney, and great care has been taken to avoid errors.

Each department of the city government has been allowed an opportunity to criticise the work, and a very large number of the most prominent lawyers at the bar have been requested to examine and offer criticisms upon it.

This office has given such examination of the work, from time to time, as was possible with our other absorbing duties.

On the whole, I should consider it a great public benefit if it should become a law.

In saying this I do not for a moment suppose that there are not some errors in the work, but I believe there are no intentional ones, and none that cannot be readily corrected if found. And I think that such a work would be rarely found as free from them as this.

With thanks for your courtesy,

I remain, yours very truly,

W. C. WHITNEY.

To His Excellency the Governor :

The undersigned respectfully represent that Assembly bill No. 500, entitled "An act to consolidate and revise several special and local laws affecting public interests in the city of New York," has been referred by the association of the bar of the city of New York to its committee on the amendment of the law, of which we are members.

The labor of critical examination of the act and careful collation of its provisions with the many statutes from which it is compiled, would practically, or to a considerable extent, be a repetition of the work of the commission, which reported it to the Legislature.

The members of this commission are well known to us. Their fitness for the task can be regarded as unquestionable. Their assurance that the act is in truth what it purports to be, a faithful revision of existing laws, and that it embodies no innovations or changes of these laws, can, in our judgment, be safely relied upon, and it is verified by such examination as we have individually been able to give to the subject.

It cannot be necessary to explain the value of such a revision to the city, and to all who are concerned in its administration, whether as magistrates or citizens.

It is not improbable that some errors may have crept into the act. In view, however, of the scrutiny to which each provision has been subjected by more than one member of the commission, it is not believed that these errors will prove to be many or serious, and they can be hereafter corrected.

It may be proper to add that our views are upon the supposition that the Legislature has not made material changes in the revision as it was reported by the commission.

We would respectfully commend the act to your favorable consideration, in the hope that it may be approved and become a law.

NEW YORK, *June 22, 1882.*

CLIFFORD A. HAND.

CHARLES C. BEAMAN, Jr.

DAVID MCCLURE.

WILLIAM B. HORNBLOWER.

DAVID J. DEAN.

ELIAL F. HALL.

CITY OF NEW YORK,
FINANCE DEPARTMENT—COMPTROLLER'S OFFICE, }
June 27th, 1882.

To Governor A. B. CORNELL:

DEAR SIR: Assembly bill No. 500 is an act to consolidate and revise several special and local laws affecting public interests in the city of New York, which has passed both branches of the Legislature, and is now before you.

I learn that the printed bill (a volume) will be acted upon by the Governor, without engrossment as in ordinary cases, thus saving errors in copying.

During the work of consolidation by the commissioners, Bliss, Whitney and Olney, I was consulted as commissioner of public works, and since as comptroller, in regard to the laws relating to the departments of public works and finance, and furnished information desired by the commissioners.

The work will be of great value to the city, as I have already had occasion to ascertain, by reference to the volume first published by the commissioners, which contained all the original laws, side by side with those as consolidated. Believing that the printed volume now before you is correct, I trust that it may become a law by your approval.

Very respectfully,

ALLAN CAMPBELL,
Comptroller.

MEMORANDUM FILED WITH ASSEMBLY BILL NO. 764, MAKING
AN APPROPRIATION FOR THE COMMISSIONERS OF EMIGRA-
TION. APPROVED.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, July 1, 1882. }

[Filed with the Secretary of State.]

Memorandum filed with Assembly bill No. 764, entitled "An act making an appropriation for the Commissioners of Emigration." Duly approved.

Action on this bill has been delayed until the last day of the Constitutional limit, in the hope that Congress would pass

the immigrant tax bill, and thus provide for the future necessities of this service. At this date, however, the fate of that measure is still undetermined, having yet to depend on the action of the Senate and the President. The steamship companies have been constrained to enter into a temporary compromise from which they are liable to recede in the event of the failure of the Congressional bill. Meantime the Commissioners of Emigration have pressing need of the \$50,000 provided by this bill to repair the buildings belonging to the State on Ward's Island, and hitherto sadly neglected; and, also, about \$40,000 to discharge obligations incurred prior to the beginning of payments by the steamship companies, and interest on the Ward's Island mortgage due this day.

The Commissioners have pledged themselves, over their individual signatures, that, in case Congress imposes the immigrant tax, or that the steamship companies continue their payments, as at present made, no more than \$90,000 of this appropriation shall be drawn from the State treasury. Under these circumstances the only prudent course now presented is to approve the bill, in the hope that the \$90,000 only will be required. In the event of the failure of Congressional action, and the refusal of the companies further to contribute, the honor and best interests of the State, and of humanity, seem to demand a continuance of this burden until relief shall come, as it must finally come, from national legislation.

ALONZO B. CORNELL.

OFFICE OF THE COMMISSIONERS OF EMIGRATION }
OF THE STATE OF NEW YORK, }
CASTLE GARDEN, N. Y., *June 30, 1882.* }

To His Excellency, ALONZO B. CORNELL, Governor:

SIR: The Commissioners of Emigration of the State of New York respectfully represent to you that at the last session of the Legislature an act was passed appropriating the sum of \$200,000 to maintain the commission for the year ending May 1st, 1883. That since said act was passed a bill has been

introduced in Congress levying a tax of fifty cents per capita on each alien passenger landed at any port in the United States, and the commissioners have reason to believe that this bill will become a law before the close of the present Congress. Should such act be passed by Congress we are of the opinion that only a portion of the appropriation made by the Legislature will be required.

The amount of \$50,000, specially appropriated for repairs to the buildings under the charge of the board, will, in the opinion of the commissioners, be needed. The amount now due and unpaid by the commission, for supplies, salaries, etc., is \$35,000; and there will be also due on July 1st next, \$5,000, for interest on the mortgage on Ward's Island. Should the act now before Congress become a law no more of the appropriation will be needed, and the undersigned hereby pledge for the board and for themselves that there will not be drawn by the Commissioners of Emigration any more than the amount of \$90,000 above named, provided that the steamship companies continue to pay, as at present, the sum of fifty cents per alien passenger, or that Congress shall enact the bill now before it levying this tax.

We are, sir, your obedient servants,

EDMUND STEPHENSON.

CHARLES N. TAINTOR.

GEO. STARR.

[Official Seal] GEO. J. FORREST.

CHARLES HAUSELT.

JAMES LYNCH.

DISMISSAL OF CHARGES AGAINST JUDGE SILAS D. GIFFORD.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,
ALBANY, *July 6, 1882.* }

IN THE MATTER OF CHARGES <i>against</i> SILAS D. GIFFORD, COUNTY JUDGE OF THE COUNTY OF WESTCHESTER, REFERRED BY ANDREW MCFALL.	}
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It becomes the duty of the Governor on receiving charges against a public officer subject to removal by him, pur-

suant to the Constitution or the statutes, to make due investigation thereof, and decide on the evidence educed, by either of the methods provided, as to him may appear practicable. It would be a perversion of duty to undertake to determine a complaint made in due form, on personal grounds, or in any manner not contemplated by the mode of procedure followed in such cases, whoever may make the charges, or whatever officer be the party accused. In the above entitled case careful inquiry and investigation have been made, ample time having been afforded the parties concerned to furnish proof thereon. The one conspicuous fact appearing, which too often happens in the bringing of charges against public officers, is the hasty and inconsiderate action of the complainant, who, from some fancied wrong or grievance growing out of a litigious spirit, sought to impeach a judicial officer whose decisions in certain instances did not conform to his views or subserve his interests. Without regard, however, to the question of motive, if admissible at all to consider it, patient inquiry has failed to establish the charges in any of the particulars alleged: and the same are therefore hereby dismissed.

ALONZO B. CORNELL.

ORDER AUTHORIZING THE COMMISSIONERS OF EMIGRATION
TO CONTRACT FOR THE SUPPORT OF IMMIGRANTS.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *August* 14, 1882. }

The Commissioners of Emigration of the State of New York having by law the charge of the local affairs of immigration in the port of New York, are hereby designated and authorized to contract with the Secretary of the Treasury of the United States for the support and relief of immigrants landing at that

port, pursuant to the Act of Congress to regulate immigration, approved August 3, 1882.

Done at the Capitol, in the city of Albany, this fourteenth
[L. S.] day of August, A. D. 1882.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

ORDER DIRECTING THE REMOVAL OF OBSTRUCTIONS IN THE
HOOSICK RIVER AND THE ABATEMENT OF A NUISANCE
THEREAT.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

*To the Boston, Hoosac Tunnel and Western Railroad Com-
pany, and to all others whom it may concern :*

Complaint having been made to me by citizens of the village of Schaghticoke, in the county of Rensselaer, of obstructions in the channels of the Hoosick river, adjacent to that village, which, by diverting the water of the river from its natural course, have rendered the locality extremely unhealthy ; and I having, pursuant to the provisions of law, required the State Board of Health to examine into the subject-matter of such complaint, in a communication to said Board made ; and the State Board of Health, in pursuance of such requirement, having made report that —

“The State Board of Health has, by its standing committee
“on drainage, sewerage and topography, examined the causes
“of complaint by citizens of Schaghticoke, and find :

“1. The diversion of the waters of the Hoosick river from
“the natural channel, caused by the embankment of the Bos-
“ton, Hoosac Tunnel and Western railroad, has converted
“that channel and its margins into a malarial bed, which is a
“standing nuisance, the influence of which creates a vast
“amount of sickness in said village.

“2. No relief can be expected from the prevailing sickness
“until the aforesaid nuisance is abated, which we recommend
“to be done immediately.”

And the said report having been by me duly approved and filed, according to law, in the office of the Secretary of State, on the 23d day of September, 1882 ;

Now, therefore, I, Alonzo B. Cornell, Governor of the State of New York, by virtue of the powers vested in me by chapter 322 of the Laws of this State, of the year 1880, and the act amendatory thereof, chapter 308 of the Laws of 1882, in relation to the matters and things so certified by the State Board of Health to be a public nuisance, do hereby declare the same to be a public nuisance, to wit :

The present condition of the channels and margins of the Hoosick river east of and near the village of Schaghticoke, from which the natural flow of the water of said river has been diverted by the embankment of the Boston, Hoosac Tunnel and Western railroad ; also, so much of the said railroad embankment as obstructs and prevents the water of the Hoosick river from flowing through the old and natural channels of said river, as and where it was accustomed to flow immediately before the construction of said embankment.

And by virtue of the power aforesaid, I do hereby order that the Boston, Hoosac Tunnel and Western Railroad Company remove, within three months of the time and date of this order, so much of the said embankment east of and near the said village of Schaghticoke, hereinbefore referred to and declared to be the cause and occasion of the alleged nuisance, as obstructs and prevents the water of the Hoosick river from flowing through the old and natural channels of said river, as and where it was accustomed to flow immediately before the construction of said embankment, of a width of at least one hundred feet, and of sufficient depth to pass the water ; or that would allow the water of said river, in its ordinary flow,

to pass through said embankment into said old and natural channels, said opening to be located between Rocky Island and the main land, where the original channel flowed ; also, to make an opening in the said railroad embankment between Rocky Island and Joy's Island where the original channel flowed, of at least twenty feet in width and of sufficient depth to pass the water that would pass through said opening.

Given under my hand and the Privy Seal of the State, at the Capitol, in the city of Albany, this twenty-
[L. s.] third day of September, in the year of our Lord one thousand eight hundred and eighty-two.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

ORDER TO DISTRICT ATTORNEY OF RENSSELAER COUNTY
FOR ENFORCEMENT OF A CERTAIN ORDER RELATING TO
NUISANCE AT SCHAGHTICOKE.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

*To the District Attorney, County of Rensselaer, State of
New York :*

An order has this day been made by me for the abatement of an alleged nuisance, so certified and found by the State Board of Health, in or about the village of Schaghticoke, Rensselaer county ; a copy of said order being hereto annexed, in which are more specifically set forth the matters and things relating to the nuisance complained. And you are hereby directed and ordered, by authority in me vested by chapter 308 of the Laws of the State of New York, of the year 1882, to take all necessary measures to execute

and obey the said order in so far as your duty pertains and belongs.

Given under my hand and the Privy Seal of the State, at
the Capitol, in the city of Albany, this twenty-
[L. s.] third day of September, in the year of our Lord
one thousand eight hundred and eighty-two.

ALONZO B. CORNELL.

By the Governor:

HENRY E. ABELL,

Private Secretary.

ORDER TO THE SHERIFF OF RENSSELAER COUNTY FOR EN-
FORCEMENT OF A CERTAIN ORDER RELATING TO NUISANCE
AT SCHAGHTICOKE.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

*To the Sheriff of the County of Rensselaer, State of New
York:*

An order has this day been made by me for the abatement of an alleged nuisance, so certified and found by the State Board of Health, in or about the village of Schaghticoke, Rensselaer county; a copy of said order being hereto annexed, in which are more specifically set forth the matters and things relating to the nuisance complained. And you are hereby directed and ordered, by authority vested in me by chapter 308 of the Laws of the State of New York, of the year 1882, to take all necessary measures to execute and obey the said order in so far as your duty pertains and belongs.

Given under my hand and the Privy Seal of the State, at
the Capitol, in the city of Albany, this twenty-
[L. s.] third day of September, in the year of our Lord
one thousand eight hundred and eighty-two.

ALONZO B. CORNELL.

By the Governor:

HENRY E. ABELL,

Private Secretary.

PROCLAMATION APPOINTING A DAY OF THANKSGIVING.

STATE OF NEW YORK, }
EXECUTIVE CHAMBER. }

PROCLAMATION.

By ALONZO B. CORNELL, Governor.

The lengthening shadows of waning autumn betoken the return of the season, hallowed by our ancestors many generations, for returning thanks to the Supreme Being for His merciful protection and support. Following this time-honored custom, now recognized by our statutes, Thursday, the 30th day of November next, is hereby designated and set apart as a day of Thanksgiving to Almighty God for the manifold blessings vouchsafed unto the people of this State during the past year.

Fruitful harvests and prosperous industries have rewarded the diligent hand of labor ; healthfulness, peace and contentment dwell with the people. The authority of law has been respected ; public order observed ; and the interests of Christianity, education and morality have been especially promoted. Seldom, indeed, has a single year in the history of our State been more signally favored with gracious manifestations ; while throughout our common country general prosperity has prevailed ; the tide of immigration to our shores has been unprecedented, and in all material development the Nation has progressed in a degree never before equalled.

For the happiness and prosperity enjoyed, and all the evidences of Divine favor shown unto us, we owe grateful acknowledgment to our Heavenly Father on whom alone for life and strength we depend. It is, therefore, recommended that on the day hereby designated the people of this State lay aside their ordinary pursuits, and gather together in the accustomed places of worship, to give thanks in His Holy name for all the blessings of the closing year. And furthermore, by the reunion of families and friends ; by the restora-

tion of ties of friendship broken ; and by deeds of blessed charity, let the day be so observed that it shall honor every Christian virtue and Him from whom all good descends.

Done at the Capitol, in the city of Albany, this twenty-
[SEAL] eighth day of October, in the year of our Lord
one thousand eight hundred and eighty-two.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,

Private Secretary.

**DENIAL OF APPLICATION FOR AN EXTRAORDINARY TERM OF
THE SUPREME COURT IN THE MATTER OF THE ALBANY
MAYORALTY.**

STATE OF NEW YORK :

EXECUTIVE CHAMBER, }
ALBANY, *December 1, 1882.* }

Application is made for the appointment of an extraordinary term of the Supreme Court at Albany, to afford opportunity for the trial of the contested mayoralty election case, which, it is alleged, cannot be reached at the approaching December circuit. This case, involving as it does, the right of self-government of 100,000 people, should have trial at the earliest possible time ; but until it shall have been demonstrated by actual experience that it cannot be tried at the coming circuit, it would be a very grave act for the Governor to appoint an extraordinary term. The main obstacle to the trial of this case is believed to be the limited time the presiding justice will feel disposed to employ for the term, in anticipation of his engagement to hold the Schoharie circuit, now designated for the second Monday in January. This obstacle may be readily removed by providing another justice to hold the Schoharie circuit, on request of the designated justice or on assignment by the Governor ; thus affording Mr. Justice Ingalls opportunity to continue the Albany circuit until it shall have disposed of the case in question.

In view of the political interests involved in the mayoralty case it would appear almost like an act of usurpation for the Governor to designate an extraordinary term of court for the avowed purpose of bringing it to trial while a regular circuit is approaching or in progress. It is, therefore, in every way better to provide by substitution of a presiding justice for the Schoharie circuit, where no unusual cases are pending, than to allow any interference with the course of proceedings in the Albany case.

ALONZO B. CORNELL.

APPENDIX.

STATEMENT

OF PARDONS, COMMUTATIONS OF SENTENCE AND REPRIEVES
GRANTED BY THE GOVERNOR DURING THE YEAR 1882.

PARDONS.

July 31, 1882. Gertrude Knight. Sentenced January, 1880 ; county, Kings ; crime, petit larceny ; term, sentence suspended.

The prisoner is a West Indian girl of good birth and education, whose offence was a trifling one. Her sentence was suspended at the request of a lady who accidentally learned of her history. Sentence is still in suspense, and as her conduct during the two and a half years since the complaint was made has been exemplary, both the Justice and District Attorney unhesitatingly recommend the granting of a pardon.

COMMUTATIONS OF SENTENCE.

March 16, 1882. Martin Flanigan. Sentenced May, 1881 ; county, Erie ; crime, murder in the first degree ; to be hanged Friday, July 8, 1881. Reprieved June 30, 1881, until Friday, August 12, 1881, to allow motion for a new trial. Motion denied and prisoner re-sentenced to be hanged Friday, January 20, 1882. Reprieved January 19, 1882, until Friday, February 10, 1882, and again reprieved February 7, 1882, until Friday, March 24, 1882 ; prison, county jail.

Sentence commuted to imprisonment in the State Prison at Auburn, N. Y., for the term of his natural life at hard labor.

Martin Flanigan was convicted of murder in the first degree, in the Superior Court of Buffalo, May 20, 1881. There was no doubt as to the identity of the murderer, or of the fact of his having committed the act, which was brutal in character and shocking to every moral sensibility. The case was reviewed on appeal at the General Term, and also by the Court of Appeals; and the conviction was duly affirmed. Under these circumstances an examination of the case involving possible interference by the Executive with the sentence of the court, has been approached with extreme reluctance. The presentation of petitions by a delegation of prominent citizens of Buffalo, headed by the mayor of that city, for commutation of sentence, accompanied by statements calculated to impeach the justness of the conviction, seemed to make a careful and thorough examination of the case an imperative duty.

A patient review of the details of the evidence presented at the trial, together with an elaborate statement by Judge Beckwith, the presiding justice, and the affidavits of six of the jurors, convince me that sufficient uncertainty really exists as to the mental condition of the prisoner at the time of the murder, to cast a shadow of doubt, at least, upon the correctness of the verdict rendered. Under the law of murder as now defined in our State, it is necessary for the prosecution to establish that the act was committed with deliberate and premeditated design, in order to justify a verdict of murder in the first degree. In the case under consideration the real question involved is whether the prisoner by reason of intoxication was capable of that "deliberation and premeditation" which the law contemplates as necessary to warrant conviction in the higher degree of murder.

Judge Beckwith, after carefully reviewing the case, has become convinced that the verdict of murder in the first

degree was not justified by the evidence. He says: "If I had the power I should commute the prisoner's sentence to imprisonment for life." And in a late communication he makes use of this language: "So fully convinced am I that liquor was at the bottom of the crime, in view of the present policy of the State as shown in the statute and new criminal code about to go into operation, I can scarcely escape the conclusion that the theory of penal justice now adopted by the State requires for the punishment of this prisoner only his imprisonment in a State prison at hard labor for the term of his natural life." It can hardly be doubted that the judge whose province was to hold the scales of justice with even hand and impartially consider the evidence in the case, is more competent than any other person to reach a wise and just conclusion.

The affidavits of six of the jurors show that serious doubts existed in the minds of some of their number as to the question of deliberate premeditation, and that the difference of opinion which at first prevailed in the jury room was finally compromised under an agreement that the verdict of murder in the first degree should be rendered on condition that the jurors should unite in a petition to the Governor to commute the sentence to life imprisonment. The action of the jurors in stultifying their honest opinions was in the highest degree reprehensible. Assuming that the minority of the jury were conscientious in their belief that the accused was not mentally responsible when the crime was perpetrated, their surrender to the majority can only be characterized as a shameful trifling with human life. It is to be regretted that their reliance on Executive interference cannot be resented without placing in jeopardy the life of the prisoner, which should have been protected by the proper assertion of independent and unswerving conviction of duty on the

part of jurors who were not convinced that the prisoner was guilty of murder in the first degree.

While the law expressly declares that intoxication shall not excuse crime, and that "deliberation and premeditation" are now made the condition on which the first degree of murder shall rest, it is quite clear that if the prisoner was incapacitated from the full and complete exercise of his mental faculties, and thus incapable of deliberating with premeditation, he could only have been guilty of murder in the second degree. Whether the prisoner was actually so incapacitated or not, can not at this late day be positively ascertained, but the declarations of Judge Beckwith and the jurors certainly raise serious doubt in this regard, and in such case it is manifestly proper that the accused should have the benefit of that doubt. It would surely not comport with the name and dignity of the State to permit the life of a condemned man to be taken when the force and integrity of the conviction can be reasonably assailed or impeached. In this view the sentence of the court will be commuted to imprisonment for life at hard labor in the State Prison at Auburn.

EXHIBIT "A."

Affidavit accompanying petitions for commutation of the death sentence of Martin Flanigan, as to the standing of the jury on the verdict.

STATE OF NEW YORK, }
Erie County, City of Buffalo. } ss:

I, William H. Carney, being duly sworn, do depose as follows: I reside in the city of Buffalo and am engaged in the business of shirt manufacturing and gent's furnishing goods. I was one of the jurors empanelled for the trial of the indictment of Martin Flanigan, who is now confined in the jail under sentence of death. After the jury retired for deliberation several ballots were taken

which disclosed that two of the twelve were not in favor of a verdict of guilty of murder in the first degree. Of these two jurors I was one. I was not satisfied, and have never been satisfied, that there existed in the case or accompanied the act of the prisoner which resulted in Karins' death the two elements of premeditation and deliberation, which I understood to be necessary to constitute the crime of murder in the first degree. The majority of the jury, however, claimed that under the charge of the court we could not take into consideration the question of the prisoner's intoxication as bearing upon either of these two points. I thought we could, and I also thought that other circumstances, such as the location of the wound and the size of the weapon, showed the absence of both these elements. After discussion of the evidence and the charge, the jury still standing ten to two, it was finally suggested and agreed to by the majority of the jurors, and, as I understood it, by all the ten, that if we two would join in a verdict finding the prisoner guilty of murder in the first degree, then all the others would unite in a petition asking that the sentence be commuted to imprisonment for life. It was represented that such a petition would be successful and the prisoner receive punishment accordingly, and the result be precisely that which would come if the majority agreed with the minority. I believed at the time that such would be the result of such a petition, and under these representations and in this belief joined in the verdict. I still think the evidence did not justify the verdict which was rendered, and have always thought so, and would never have agreed to it to this day had I supposed it would result in Flanigan's execution.

WILLIAM H. CARNEY.

Sworn before me this 24th }
day of January, 1882. }

[Notarial Seal.]

WM. JOHNSON,

Notary Public, in and for Erie Co., N. Y.

March 20, 1882. Frank Pickering. Sentenced February 20, 1882; county, Chemung; crime, intoxication; term, sixty days; prison, Monroe County Penitentiary.

Sentence commuted to thirty days, from February 20, 1882, and will terminate the twenty-second day of March, 1882. Granted upon condition that the said Frank Pickering shall totally abstain from the use of intoxicating liquor. And in the event of his not complying at all times with this condition, this commutation of sentence shall cease and become inoperative, and he shall be arrested and imprisoned according to his original sentence.

March 29, 1882. Charles Gotthelf. Sentenced October 9, 1880; county, Erie; crime, receiving stolen property; term, two years; prison, Erie County Penitentiary.

Sentence commuted to one year and nine months, from October 9, 1880, subject to the legal deduction for good conduct. Granted upon the recommendation of the Judge and District Attorney.

April 7, 1882. Abram Brazee. Sentenced November 19, 1878; county, Steuben; crime, burglary in the third degree; term, five years; prison, Auburn.

Sentence commuted to three years, four months and twenty days, from November 19, 1878, and will terminate the eighth day of April, 1882. Granted upon the recommendation of the present and former District Attorneys of Steuben county, as the prisoner's testimony is wanted in an important criminal trial.

April 14, 1882. James C. Snow. Sentenced March 2, 1882; county, Onondaga; crime, keeping a disorderly house; term, one year, and fined two hundred and fifty dollars; prison, Onondaga County Penitentiary.

Sentence commuted to pay a fine of one hundred and fifty dollars in addition to the fine of two hundred and fifty dollars imposed at the time of the original sentence. The said total fine of four hundred dollars to be paid to the Superintendent of the Onondaga County Penitentiary;

and in default of payment, this commutation shall be null and void and not take effect.

May 29, 1882. William Rudd. Sentenced October 31, 1878 ; county, Oneida ; crime, burglary in the first degree and larceny ; term, ten years ; prison, Auburn.

Sentence commuted to five years, from October 31, 1878, subject to the legal deduction for good conduct. This case is strongly urged by many of the best citizens of the towns of Marcy and Deerfield, Oneida county, as they believe the ends of justice subserved.

August 30, 1882. James Devoe. Sentenced June 17, 1882 ; county, Westchester ; crime, petit larceny ; term, four months ; prison, Albany County Penitentiary.

Sentence commuted to seventy-five days, from June 17, 1882, and will terminate on the thirty-first day of August, 1882. Granted upon the recommendation of the Judge, as the prisoner was convicted and sentenced under a misapprehension of facts.

November 15, 1882. Gregory Fry. Sentenced March 21, 1868 ; county, Erie ; crime, arson in the first degree ; term, life ; prison, Auburn.

Sentence commuted to twenty-four years from March 21, 1868, subject to the legal deduction for good conduct. Granted upon the recommendation of the Justice of the Supreme Court who presided at the trial, who has become satisfied from recent investigation that the building set on fire was not the subject of arson in the first degree, and that the prisoner was not guilty of the offence charged, and that if this point had been properly presented on the trial the result would have been different.

November 23, 1882. Robert J. Harsha. Sentenced November 29, 1881 ; county, Washington ; crime, forgery in the third degree ; term, two years and six months ; prison, Clinton.

Sentence commuted to one year from November 29, 1881, and will terminate the twenty-eighth day of November, 1882. Recommended by the District Attorney. December 29, 1882. George Ketchum. Sentenced February 21, 1880 ; county, Tioga ; crime, advising and procuring an abortion ; term, ten years ; prison, Auburn.

Sentence commuted to four years from February 21, 1880, subject to the legal deduction for good conduct. December 29, 1882. Richard Austin. Sentenced June 23, 1881 ; county, New York ; crime, selling lottery policies ; term, one year and pay a fine of two hundred and fifty dollars, and stand committed until said fine be paid. Stay of proceedings granted and case now pending on appeal ; prison, State Prison.

Sentence commuted to pay a fine of fifteen hundred dollars in addition to the fine of two hundred and fifty dollars imposed at the time of the original sentence, on condition that the said total fine of one thousand seven hundred and fifty dollars shall be paid to the District Attorney of New York county on or before the tenth day of January, 1883, and in default of such payment this commutation of sentence shall be null and void and not take effect.

REPRIEVES.

January 19, 1882. Martin Flanigan. Sentenced May 20, 1881 ; county, Erie ; crime, murder in the first degree ; term, to be hanged Friday, July 8, 1881. Reprieved June 30, 1881, until Friday, August 12, 1881, to allow motion for a new trial. Motion denied and prisoner re-sentenced to be hanged Friday, January 20, 1882 ; prison, county jail.

Reprieve granted until Friday, the tenth day of February, 1882, upon the recommendation of Mayor Cleveland and other prominent citizens, that grave reasons

exist for further consideration of the application for commutation of sentence.

February 7, 1882. Martin Flanigan. Sentenced May 20, 1881; county, Erie; crime, murder in the first degree; term, to be hanged Friday, July 8, 1881. Reprieved June 30, 1881, until Friday, August 12, 1881, to allow motion for a new trial. Motion denied, and prisoner re-sentenced to be hanged Friday, January 20, 1882. Reprieved January 19, 1882, until Friday, February 10, 1882; prison, county jail.

Reprieve granted until Friday, the twenty-fourth day of March, 1882, to give time for more careful consideration of the application for commutation of sentence as recommended by Judge Beckwith, who presided at the trial.

February 7, 1882. William Sindram. Sentenced December 28, 1881; county, New York; crime, murder in the first degree; term, to be hanged Friday, February 10, 1882; prison, county jail.

Reprieve granted until Friday, the tenth day of March, 1882, upon the recommendation of Hon. Noah Davis, presiding Judge of the General Term, and the District Attorney of New York, to give time for the Court of Appeals to pass upon the case.

March 7, 1882. Henry Moett. Sentenced February 4, 1880; county, Columbia; crime, murder in the first degree; term, to be hanged Friday, March 19, 1880. Reprieved March 15, 1880, until Friday, April 30, 1880. Writ of error and stay of proceedings granted, case argued at General Term, conviction affirmed and prisoner re-sentenced to be hanged Friday, January 7, 1881. Another stay of proceedings granted and case removed to Court of Appeals on writ of error. Judgment of Oyer and Terminer and General Term affirmed. Affidavits and

notice of motion for leave to apply to Oyer and Terminer for new trial served, motion denied, appeal taken to the General Term, decision affirmed and prisoner re-sentenced, February 3, 1882, to be hanged Friday, March 17, 1882; prison, county jail.

Reprieve granted until Friday, the fifth day of May, 1882, to allow the Court of Oyer and Terminer to hear and pass upon a motion for new trial based upon newly discovered evidence.

March 7, 1882. William Sindram. Sentenced December 28, 1881; county, New York; crime, murder in the first degree; term, to be hanged Friday, February 10, 1882. Reprieved February 7, 1882, until Friday, March 10, 1882; prison, county jail.

Reprieve granted until Friday, the seventeenth day of April, 1882.

March 9, 1882. William Sindram. Sentenced December 28, 1881; county, New York; crime, murder in the first degree; term, to be hanged Friday, February 10, 1882. Reprieved February 7, 1882, until Friday, March 10, 1882. Again reprieved March 7, 1882, until Friday, April 7, 1882; prison, county jail.

Reprieve granted until Friday, the twenty-first day of April, 1882, as otherwise the day of execution would fall upon Good Friday.

April 19, 1882. Augustus D. Leighton. Sentenced March 14, 1881; county, New York; crime, murder in the first degree; term, to be hanged Friday, April 21, 1882; prison, county jail.

Reprieve granted until Friday, the nineteenth day of May, 1882, upon the application of the counsel and friends of the prisoner, to give time for religious preparation.

June 15, 1882. James F. Walsh. Sentenced March 26, 1881; county Kings; crime, murder in the first degree; term, to be hanged Friday, May 20, 1881. Stay of proceedings granted, case appealed, decision affirmed and prisoner re-sentenced to be hanged Friday, June 23, 1882; prison, county jail.

Reprieve granted until the twenty-first day of July, 1882, to give time for a careful consideration of the merits of an application for commutation to imprisonment for life.

COMPARATIVE STATEMENT,

Showing the Number of Applications for Pardons, Commutations, Restorations to Citizenship and Reprieves; also the Number of Orders granted in the respective classes in each year, from 1865 to 1882, inclusive.

YEAR.	Number of applications presented.	Pardons granted.	Commutations granted.	Total number of pardons and commutations granted.	Restorations to citizenship granted.	Reprieves granted.
1865.....	878	131	19	150	23	3
1866.....	958	169	24	193	82	1
1867.....	1,018	130	12	142	47	None.
1868.....	1,000	111	36	147	118	6
1869.....	948	86	20	106	100	2
1870.....	1,158	85	34	119	139	1
1871.....	1,192	84	29	113	119	5
1872.....	1,352	98	58	156	159	1
1873.....	894	44	8	52	24	3
1874.....	1,014	71	21	92	37	3
1875.....	998	65	24	89	70	11
1876.....	1,214	99	54	153	128	8
1877.....	1,038	90	21	111	119	None.
1878.....	1,152	107	66	173	164	1
1879.....	1,400	103	106	209	278	2
1880.....	826	32	18	50	19	6
1881.....	578	None	17	17	10	2
1882.....	450	1	11	12	14	8

INDEX.

MISCELLANEOUS.

Appendix, showing pardons, commutations of sentence, etc.....	142
Charges against Judge Gifford, dismissal of.....	133
Commissioners of Emigration, order authorizing them to contract for the sup- port of immigrants.....	134
Commissioners of Emigration, memorandum filed with bill making appropria- tion for.....	131
Denial of application for an extraordinary term of the Supreme Court at Albany	140
Letter to the Superintendent of State Prisons.....	64
Memorandum filed with the bill consolidating the local laws of New York city,	128
Memorandum filed with bill amending charter of village of Waterloo.....	103
Message, annual.....	3
Message, special, railroad disaster at Spuyten Duyvil.....	52
Message, special, transmitting report of the Yorktown Centennial Commission,	54
Messages, special, relative to portrait of President Lincoln	59, 94
Message, special, relative to encampment of the National Guard.....	66

PUBLIC HEALTH.

New Rochelle, order directing abatement of certain nuisances in.....	50
Schaghticoke—	
Order directing abatement of nuisances in.....	135
Order to District Attorney in the same.....	137
Order to Sheriff in the same.....	138

PROCLAMATIONS.

Appointing a day of Thanksgiving.....	139
Declaring Greenwood, Steuben county, in a state of insurrection.....	61
For special election in the Eighteenth Senate district....	60
Reward for murderer of Simon A. Vandercook.....	60
Revoking proclamation relative to Greenwood, Steuben county.....	101

VETOES.

Albany County Clerk, office hours of.....	83
Albany, expenditure of balances by the Board of Public Instruction	77
Armory at Troy, providing for.....	104

INDEX.

Armory in Kings county, appropriation for.....	121
Auburn, revising charter of.....	95
Binghamton, increasing pay of police force of.....	74
Brooklyn —	
Amending charter of, as to Park Commissioners.....	86
Amending charter of, as to school funds.....	72
Arrearages of taxes in.....	96
Buffalo Cemetery Association to acquire lands.....	85
Buffalo Light Battery, to incorporate the.....	87
Canal, items in appropriation for.....	100
Canal Appraisers, items of award by.....	102
Capital cases, defense to have closing address in.....	75
Cayuga county, hearing of claims of.....	127
Civil Code, to establish a.....	120
Children in reformatories to labor under contract.....	91
Escheat, releasing to John McLaughlin.....	68
Eureka Basin Warehouse Company, relating to.....	88
Fulton county, relating to supervisors of.....	94
Furniture, sale of, on installment plan.....	81
Gooleston Fire Engine Company, to change name of.....	69
Illuminating oils, regulating standard of.....	71
Kings county, erection of armory in.....	121
Liability of towns for defective highways.....	89
Military Code, to establish a.....	122
Meyer, William, for the relief of heirs of.....	69
New York City —	
Compensation of prison keepers in.....	98
Taxation of corporations in.....	106
Public offices to close on Saturdays in New York and Kings counties.....	84
Receivers' trusts, for transfer of, to State Treasurer.....	123
Sangerfield, to legalize the vote of.....	75
Sharpe, Marilla M., extending time for filing claim of.....	99
Sing Sing branch society for the prevention of cruelty.....	62
Stenographers in Court of General Sessions, compensating.....	93
Stenographers of Supreme Court, relating to.....	96
Street railroads, relating to.....	118
Supply bill, certain items in.....	106
Troy —	
Providing for a State armory at.....	104
Amending charter of.....	105
Women to be appointed managers of public charities.....	79

